

# NAVAL POSTGRADUATE SCHOOL MONTEREY, CALIFORNIA



## THESIS

### THE FBI AND DOMESTIC COUNTERTERRORISM: A COMPARATIVE ANALYSIS

by

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December 1995

Thesis Advisor:

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**THE FBI AND DOMESTIC COUNTERTERRORISM:  
A COMPARATIVE ANALYSIS**

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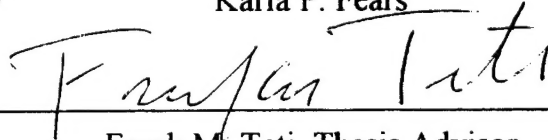
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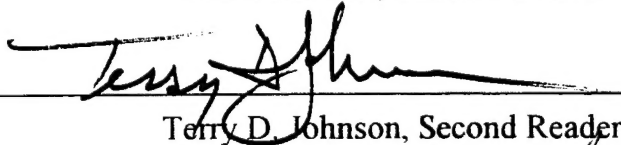


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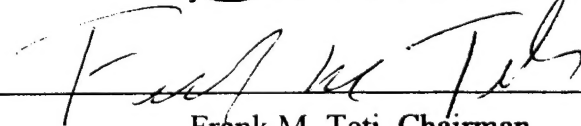
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## **ABSTRACT**

This thesis is an attempt to analyze the effectiveness of the Federal Bureau of Investigation (FBI) in countering domestic terrorism in comparison to other democracies. In the first chapter, there is an attempt to define terrorism by examining the historical development and early attempts at defining terrorism. The second chapter describes the history of the FBI and its early battles with domestic terrorists, including infringements upon constitutional rights. The third chapter relates Israel's problems with domestic terrorism by outlining the professional development and tragic errors of the Shin Bet (Israel's domestic security service). Great Britain's attempts to crush the Irish Republican Army are the subject of the fourth chapter. The fifth chapter concludes by demonstrating that each country has sought to eliminate domestic terrorism but no matter what method is used, eventually, they are forced to negotiate with the terrorists.



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## I. INTRODUCTION

Terrorism has existed as a form of warfare since prehistoric periods. Although it was not coined as an official term until the eighteenth century, the phenomenon itself is not new. If one may be so bold, Moses used a form of God-supported terrorism in his efforts to break away from the Pharaoh of Egypt. Although some might disagree with this insight, since Moses was trying to do good, it is certain the Egyptians did not feel this way. Eventually, this form of terrorism was successful. The Assassins, a sect of the larger Ismaili sect of Muslims, developed a specific religious doctrine which justified the murder of their religious and political rivals. They were later suppressed by the Mongols. The Catholic church was not above using a form of religious terrorism during the Dark and Middle Ages, threatening hapless populations with a life in hell if they did not follow the tenants of the church. They were able to manipulate, dominate and prosper by threats of excommunication and the Inquisition. The common thread of this form of terrorism is an effort at religious dominance.

This brings to mind the definition of "terrorism." Although activities characterized as terrorism have escalated and declined with world situations, there really is no precise or widely-accepted definition. This is made more difficult by the fact that the word "terrorism" has currently become a fad word applied liberally to a variety of acts of violence which may not be terrorism. Governments label violent acts committed by their political opponents as terrorism while antigovernment groups claim to be the victim of terrorism perpetrated by the government. The use of the word "terrorism" depends on one's point of view and implies a

moral judgment. If the label "terrorist" can be successfully applied by one party on its opponent, that party persuades the majority to adopt their moral viewpoint.<sup>1</sup>

One of the myriad difficulties in defining "terrorism," "terrorist," or "terroristic," is the relativity of these concepts. This comes from differing perspectives and conflicting interests of those who have attempted to define terrorism. Also, there are intrinsic complications in reaching a neutral definition of a concept that has strong ideological and emotional implications.<sup>2</sup>

Terrorism may refer to actions primarily conducted to produce fear and alarm in order to serve a variety of purposes. In general, however, it is frequently applied to similar acts of violence—ransom kidnappings, hijackings, sensational killings— which may not be intended by the perpetrators to produce terror. Once a group acquires the label "terrorist," everything they do, whether intending to produce terror or not, becomes a terrorist act. If the group robs a bank or an arsenal, acts which are usually considered urban guerrilla tactics, these acts then become terrorist acts. The difficulties in arriving at a definition of terrorism have resulted in the cliché that "one man's terrorist is another man's freedom fighter."<sup>3</sup>

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<sup>1</sup>This viewpoint was originally presented by Brian M. Jenkins to the Joint National Meeting of the Operations Research Society of America and the Institute for Management Sciences, New York, May 1-3, 1978.

<sup>2</sup>Ezzat A. Fattah, "Terrorist Activities and Terrorist Targets: A Tentative Typology", *Behavioral and Quantitative Perspectives on Terrorism*, pg. 12.

<sup>3</sup>Jenkins, pg. 4.

Terrorism, according to the Rand Corporation, is defined by the nature of the act, not by the identity of the perpetrators or the nature of their cause. All terrorist acts are crimes but all crimes are not terrorist acts. Terrorist acts also would be in violation of the rules of war if the state of war existed. These acts involve violence or the threat of violence coupled with specific demands and the violence is directed mainly against civilian targets. Political motives are the driving force behind the violence and those actions are generated to garner maximum publicity.

This definition is not restricted solely to nongovernmental groups. Sometimes governments with their armies and their secret police may also be terrorists. The threat of torture is a form of terrorism intended to create dread of the regime and obedience to authorities. Some scholars use terrorism to refer to nongovernmental groups while the term "terror" applies to similar incidents carried out by the state. This distinction may be due to the fact that while most nongovernmental acts of terror are international, state terrorism is internal. This does not rule out international incidents of state terrorism such as the assassination of Trotsky.<sup>4</sup>

A stumbling block in defining terrorism, according to criminologist Grant Wardlaw, is a moral problem. Attempts at definition are often based on the assumption that some types of political violence are justifiable while others are not. The latter is usually classed as terrorism while the former is uncertain. Two examples of this uncertainty are the United

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<sup>4</sup>Jenkins, pg. 5.

States Air Force secret bombing of Laos and Israel's preemptive strike against a nuclear reactor in Iraq in 1981.

The bombings of Laos were justified by the United States government originally because Pathet Lao forces shot down two "reconnaissance" aircraft. Later on, the bombing continued because communists from North Vietnam were assisting the Pathet Lao and bringing supplies into Laos via the Ho Chi Minh Trail. Targeting was very tight but it did not prevent civilian casualties and disruption.

The Israelis were disturbed when they discovered the Iraqis had a nuclear development program. Although Iraq and Iran were engaged in conflict, the Israeli government believed that the nuclear program was aimed at their eventual destruction. They attempted to halt the progress of this program by appealing to France and the United States but Iraq did not respond to this pressure. Prime Minister Menachem Begin realized that an airstrike would bring down condemnation from world governments and might even bring Iran and Iraq together but he felt a preemptive move was the lesser of all evils. On June 7, 1981, the Israelis Air Force bombed the nuclear reactor at al-Tuweitha and completely destroyed it. One French technician and nine Iraqis were killed.

Although the Pathet Lao and their communist supporters condemned the bombings, the United State government believed it was justified in order to maintain democratic freedom in Southeast Asia. In their view, the perceived ends justified the means. The Israelis believed the same, even in the face of world condemnation.

In Wardlaw's view, a definition must transcend behavioral descriptions, including individual motivation, social milieu, and political purpose. Unfortunately, this has been difficult in the past because scholars have found it easier to focus on behaviors and their effects rather than consider motives and politics.<sup>5</sup>

Wardlaw also suggests that academics find it difficult to communicate with policymakers and law enforcers because the latter cannot reconcile analytical techniques with the real world. This lack of reconciliation is seen as an inability to distinguish between "right" and "wrong" acts. Therefore, Wardlaw believes that the definition should be based on moral justification; the proper study of terrorism should explain the phenomenon not justify it.<sup>6</sup>

In order to understand the nature of terrorism, Wardlaw believes that one must examine its relationship to other forms of civil, military and political violence and criminal behavior. He quotes Wilkinson who noted that "one of the central problems in defining terrorism lies with the subjective nature of terror."<sup>7</sup> The use of terror does not necessarily have to be politically motivated. Many criminals resort more and more to "terrorist" tactics for personal gain. Sociopathic individuals may terrorize due to their condition. Some members of society may be bored and frustrated with society and may terrorize to vent their rage or engage in symbolic acts of protest. Distinctions between these various forms of

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<sup>5</sup>Grant Wardlaw, *Political Terrorism: Theory, Tactics and Countermeasures* (Cambridge: Cambridge University Press, 1989), p. 4.

<sup>6</sup>Ibid., pg. 5.

<sup>7</sup>P. Wilkinson, *Terrorism and the Liberal State* (London: Macmillan, 1977), pg. 1.

terrorism may be blurred by the fact that criminals or sociopaths who engage in terrorism may pretend to legitimate themselves by adopting political slogans and collaborating with official terrorist movements who often recruit them.<sup>8</sup>

In the context of this thesis, terrorism can be defined as “a symbolic act designed to influence political behavior by extranormal means, entailing the use or threat of violence.”<sup>9</sup> Terrorism is the employment of terror as a weapon of psychological warfare for political ends. It can also be used as a deliberate method of guerrilla warfare and therefore serving military ends. Terrorism may achieve political ends by mobilizing forces sympathetic to the cause of the terrorists or by immobilizing the forces of the incumbent authorities.

#### **A. THE DEVELOPMENT OF TERRORISM**

As mentioned previously, terrorism goes back to the development of prehistoric man. It is an outgrowth of guerrilla warfare, which may be the oldest form of warfare. Prehistoric man fought in some kind of guerrilla fashion in order to keep his neighbors on their toes. It was a matter of survival. Later this type of fighting became more organized as armies came into being and conventional warfare emerged.<sup>10</sup>

The terms “terrorism” and “terrorist” have their beginnings in the French Revolution. Terrorism was defined in the *Dictionnaire de la Academie Française* as a system or regime

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<sup>8</sup>Wardlaw, pg. 9.

<sup>9</sup>T.P. Thornton, “Terror As a Weapon of Political Agitation” in H. Eckstein (ed.), *Internal War* (London: Collier-Macmillan, 1964), pg. 73.

<sup>10</sup>Wardlaw, pg. 18.

of terror in 1798 but a French dictionary published in 1796 referred to the fact that the *Jacobins* or revolutionaries used the term in a positive sense when discussing their activities. Not long after that, "terrorist" became an epithet with criminal implications. Since that time terrorism has been used to represent almost every imaginable form of violence, although many forms may not be in accordance with the broad definitions discussed earlier.<sup>11</sup>

After the French Revolution, terrorism found another niche during the later part of the nineteenth century. It was used extensively by the Russian revolutionaries in 1878 - 1881 and by radical national groups in Ireland, Macedonia, Serbia, and Armenia. Anarchists in France, Italy, Spain and the United States also embraced terrorism as a means to an end in 1890.<sup>12</sup>

In Russia, historically, one of the most important terrorist movements was the *Narodnaya Volya*, which operated between January 1878 and March 1881. This organization evolved a specific policy of terrorism and was responsible for a concerted terrorist campaign against the Tsar and his authority. According to one of their theoreticians, terrorism was considered a cost-effective form of struggle while ethically a superior choice to the mass carnage resulting from an insurrection. The difference between this terrorist campaign and the anarchist activities taking place elsewhere in Europe was that the *Narodnaya Volya's* terrorism was a directed campaign while anarchist terror tended to be an individual activity.<sup>13</sup>

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<sup>11</sup>Wardlaw, pg. 18.

<sup>12</sup>Ibid.

<sup>13</sup>Ibid., pg. 19.

*Narodnaya Volya* faded as a group and with it, terrorism. The new wave of Russian terrorism surfaced in 1902 with the formation of the Social Revolutionary Party. Their theory for using terrorism was significantly different from previous terrorist campaigns. Instead of using terrorism as a solitary weapon to replace mass struggle, it was a tool to supplement and strengthen the revolution of the masses. This new theory was more attractive to the populace whereas the theory espoused by the *Narodnaya Volya* was appealing to the intelligentsia.<sup>14</sup>

Although anarchists were also considered terrorists, there was a distinct difference between their ideology and that of the revolutionaries. Anarchists believed in the destruction of the prevailing social order because *any* state was exploitative. Violence and bloodshed were the only purgatives to cleanse society. Socialists, who used terrorism strictly as a tool, viewed the anarchists as fanatical and dangerous because they promulgated no concrete ideas for a future society. Further deviation of socialist and anarchist dogma was the value of the proletariat. Socialists assigned the mission of overthrowing capitalism to the proletariat while anarchists put their faith in peasants and thieves. In the anarchists' view, numbers who were willing to undertake acts of violence were primary to the vanguard.

After the First World War, terrorism was at a standstill. No one was interested in social change because it had been wrought by the war. The depression set in and was followed by the Second World War. During this war, there were many technological advances in the military and civilian sectors; Mao Tse-tung exploded onto the scene,

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<sup>14</sup>Wardlaw, pg. 19.

successfully if not brutally bringing communism to China. After the Second World War ended, the world was ripe for change. The United States and the Soviet Union had come out as big winners and began to compete for hegemonic control of the world through military might.

In the Middle East, Israel declared independence in order to establish a Jewish homeland as part of their covenant with God. Unfortunately, the Palestinians who lived there were not happy about being displaced for a covenant not of their making.

The French pulled out of Vietnam after their ignominious defeat at Dienbienphu and the United States stepped in to advance their "domino theory" as their fear of communist domination increased with the establishment of East Germany, North Korea, and Cuba. Having decided that Asia was ready for democracy, United States policymakers ascertained that if Vietnam fell to communism, the whole of Asia would be under communist rule. Ho Chi Minh, leader of the Vietminh, began a guerrilla campaign against the Americans, occasionally using terrorism as a form of psychological warfare.

The Vietnam War inspired students to think of government in a whole new way. Although the victories won by the Allies in the Second World War had made democracy a popular form of government, these young people and some older socialists saw American efforts to push democracy in Vietnam as imperialist expansionism. It was their duty to expose this crime to the masses. Out of student protest groups grew the second generation of terrorists in Europe and the United States.

Protesters were particularly active in West Germany where a group of left-wing, politically intellectual men and women organized underground publications and peaceful protests in sympathy with antiwar activists in the United States. The objective changed when the leader of the left-wing group, Rudi Dutschke, began to notice that the coalition government set up under the Marshall Plan had no opposition in the parliament. Dutschke questioned the legitimacy of the coalition, stating that it was no less autocratic than the Nazi regime had been. In fact, some former members of the Nazi party had been retained to fill important positions within the coalition. This was intolerable to Dutschke who took a radical, oppositional stance toward the government and confronted them with violence. He considered their idea of society inhuman and decadent and felt his behavior was justified.

The anti-authoritarian student movement began to spread under the direction of Dutschke throughout Germany. By 1968, their actions began to reflect the revolutionary groups of the Third World, mainly because the violence against "dictatorship" and "terror from above" those groups used justified the students' violence against a democratic society. This student movement decided to base their revolution on a mixture of tenets espoused by Hegel, Marx, Lenin, Mao, Ho Chi Minh, Stokely Carmichael, Eldridge Cleaver, Che Guevara and Jean-Paul Sartre. All of them underlined this doctrine: "A guerrilla fighter slays his enemy. In that act of pure violence, there is a double act of liberation. The victim has been freed from his false role and the victor has freed his own spirit for authentic manhood."<sup>15</sup>

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<sup>15</sup>Ovid Demaris, *Brothers in Blood* (New York: Charles Scribner and Sons, 1977), pg. 221.

This was a dialectic solely concerned with life and death and was meant to give legitimacy to their violent actions.

Meanwhile, in Italy, the Red Brigades were also formed in response to student and labor unrest of the late 1960s. Formerly activists in the Italian Communist Party, their objective was to educate, organize and encourage the working classes to throw off the oppressive rule of capitalism by an armed proletarian revolution. From the beginning, the Red Brigades were committed to using violence against the state in order to overthrow the Italian government which was experiencing a political and economic crisis because the socialists in power could not develop effective coalitions.<sup>16</sup>

In contrast with international terrorist incidents in Western Europe and the Middle East, spectacular incidents rarely happened in the United States during the 1970s. The smaller incidents were not generally made known or publicized outside a small circle of policy, intelligence and law-enforcement officials so the general American public was able to ignore the problem.

During this decade, bombings were the most popular method for instituting terror within the United States. Since most of the terrorist groups were small and relatively unsophisticated, bombings were the simplest strategy because they required little technical expertise, little risk and little organization. This accounted for bombings being the highest

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<sup>16</sup>Angelo M. Codevilla, "Italy: Political Violence in the Heart of NATO," *International Security Review* (February, 1981) p. 104.

percentage of terrorist acts. From 1970 to 1980, there were four-hundred twenty-seven bombing incidents within the United States which resulted in one-hundred one deaths.<sup>17</sup>

Most of the domestic terrorist activities were carried out by three groups during the 1970s. The Weather Underground was responsible for forty-six bombings which included the Pentagon, the State Department and the Capitol. In support of independence for Puerto Rico, the *Fuerzas Armadas de Liberación Nacional* (FALN) accomplished fifty-eight bombings between 1975 and 1980. From 1974 to 1978, the New World Liberation Front (NWLF) carried out seventy bombings in the San Francisco Bay area.<sup>18</sup>

Towards the end of the decade, terrorist incidents declined in the United States, which was attributed to the improved counterterrorist abilities of the Federal Bureau of Investigation (FBI). Although they acknowledged that domestic terrorism was far from being checked, the lack of terrorist activity during the 1980s changed priorities for the FBI.

Several theories have been advanced as to why terrorism in the United States did not reach the tragic proportions exhibited in Western Europe and the Middle East. Colonel James B. Motley of the National Defense University offered four reasons. First, the relative absence of political terrorism in the United States can be attributed to social and political "safety valves." Second, "terrorism is in the eye of the beholder." Perceptions of the severity of terrorism are based on spectacular acts, not statistics. Few terrorist incidents in the 1970s

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<sup>17</sup>James B. Motley, *US Strategy to Counter Domestic Political Terrorism* (Washington D.C.: National Defense University Press) p. 15.

<sup>18</sup>Motley, pg. 19.

qualified as national media events. Third, foreign terrorists rarely operated on American soil during this time. The fourth reason may be the lack of lethality associated with terrorist incidents in the United States. Most of the bombings were directed against property and with an average of eight deaths a year, this hardly seemed significant to the American public.<sup>19</sup>

From the brief history of terrorism cited here, it is obvious that terrorism will continue to plague democracies as long as it remains effective. The question is, have policymakers in the United States realized the seriousness of domestic and international groups perpetrating terrorism on American soil?

## **B. THE PURPOSE OF TERRORISM**

The use of terror to introduce and exploit fear may serve a number of purposes. Depending on the situation, terrorism may be directed simultaneously at several objectives, both strategic and tactical.<sup>20</sup>

One of the principle aims of terrorism is to divide the population from the government and/or authority figures that represent that government. Success is guaranteed if the terrorists have low levels of actual political support but high potential for such support. If the potential is low, then terrorism may be counterproductive leading to outrage and revulsion from the masses. It may also lead to counter-violence from vigilante groups or rival terrorist units.

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<sup>19</sup>Motley, pg. 21.

<sup>20</sup>Wardlaw, pg. 34.

The original terrorists' actions will then be neutralized, making their influence on policy and/or constitutional changes ineffective.

Fear and the psychology behind it is the primary road to success for terrorists. It is necessary for them to know the effects of disorientation and the nature of the society they are trying to affect. They must disorient the population by demonstrating the government's inability to provide security for them, including safety and order. More importantly, however, they must isolate citizens to prevent them from drawing strength from the usual social supports, forcing them to depend upon their own resources. As Thornton puts it, "Disorientation occurs when the victim does not know what he fears, when the source of his fear lies outside his field of experience."<sup>21</sup>

The results of instilling fear to produce personal disorientation can be unpredictable. First, political action, the goal of the terrorists, may not be provoked by fear. The populace may develop a psychological tolerance to the violence which can be a precursor to hostility. That ensuing hostility may be directed towards the terrorists or the government for their inability to provide security; this may be an unacceptable risk to the terrorist group.

A second factor is terrorist use of propaganda. The aim of this propaganda must be to tip the balance so that the government becomes the target for people's aggression. This is a delicate, difficult operation and many terrorist groups have failed and been destroyed due to their lack of finesse.

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<sup>21</sup>Thornton, pg. 74.

Some terrorism theorists disagree over the extent to which the success of terrorism depends on polarization of the society. Theodore R. Gurr argues that terrorism will not result in long-term ideological support. "Support given under coercion is unlikely to develop into a more enduring allegiance unless it can be systematically maintained over a long period"<sup>22</sup> Leites and Wolf, on the other hand, believe that unconditional support of the populace is not necessary. They maintain that all a terrorist campaign needs from a large proportion of the population is "nondenunciation" or malleability.<sup>23</sup>

A goal of terrorist tactics, related to community disorientation, is provoking the government into invoking illegal or unconstitutional repressive measures or forcing intervention by a third party. If the government uses illegal methods which deprive ordinary citizens of their human rights in order to suppress terrorists, they may lose legitimacy and public confidence and support. Carlos Marighela was quite specific about this method in his *Minimanual of the Urban Guerrilla*. "The government can only intensify its repression, thus making the lives of its citizens harder than ever. Homes will be broken into; police searches will be organized, innocent people will be arrested and communications will be broken.

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<sup>22</sup>T. R. Gurr, *Why Men Rebel* (Princeton: Princeton University Press, 1970), pg. 13.

<sup>23</sup>N. Leites and C. Wolf, *Rebellion and Authority* (Chicago: Markham, 1970), pg. 10.

Police terror will become the order of the day and there will be more and more political murders.”<sup>24</sup>

Publicity is also an aim of terrorism, sometimes the primary aim. By staging spectacular acts guaranteed to gain world attention, terrorists achieve recognition of their cause and project themselves as a force that must be reckoned with. Because terrorist groups are usually very small, they must indulge in dramatic and shocking violence to be noticed and the media has become an important catalyst for expression of the terrorists’ message.

Terrorist activities have many ambitions. The primary aim is to create fear and gain concessions. They also strive to obtain maximum publicity for their cause, provoke repression, break down social order and build morale in the movement. Their success is dependent on the accuracy of the terrorist calculations concerning timing, degree and type of terrorist activities.<sup>25</sup>

### **C. THESIS**

Terrorism will continue to have high and low activity; groups will form and dissolve. But the threat will always be present waiting to strike at the most opportune instant. The termination of the cold war has brought some peace around the world but the new way of warfare is regional conflict. This is the perfect setting for terrorism.

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<sup>24</sup>Carlos Marighela, *Minimanual of the Urban Guerrilla* (Harmondsworth: Penguin, 1971), pg. 95.

<sup>25</sup>Wardlaw, pg. 42.

The United States had some dealings with domestic terrorism, as mentioned previously, but it seemed insignificant compared with international terrorism. The FBI was able to handle those groups and eventually brought them down through various tactics such as infiltration and slander. If any American lives were lost in terrorist incidents, they happened overseas, not on American soil.

On 26 February 1993, the bombing of the World Trade Center brought Americans out of their fog of false security. The Atlantic Ocean was no longer a barrier to those who wanted to get to the United States and commit terrorist acts. On 19 April 1995, the bombing of the federal building in Oklahoma, which left one-hundred sixty-eight people dead showed that domestic terrorists were alive and well. International terrorists were not the only danger to this country. Domestic terrorists did not have to be part of an organized group. Although tragic, it was sensational in its violence and brought to the forefront the grievances of paramilitary and white supremacist groups who swore they had nothing to do with it but rode the wave of insecurity exhibited by the population.

Although the FBI was successful in apprehending the alleged perpetrators, the events had already occurred and people were dead. In my thesis, I want to explore the effectiveness of the FBI in countering terrorism that may escalate. I define "effectiveness" as exploiting intelligence received on domestic terrorist groups so that they can be stopped before the incident occurs. I will take into account the parameters under which the FBI must operate in establishing an effective response to terrorism in a democratic system.

My methodology will be comparative. In Chapter II, I will examine historical evidence of the FBI's fight against domestic terrorism under the restrictions of the Attorney General's Guidelines. This will include a look at their circumventions of these guidelines through unconstitutional operations and the use of the military. In Chapters III and IV, I will explore Israel and Great Britain, two other democracies in which domestic terrorism has flourished. Successes and failures as well as the proposed loss of some democratic freedoms within those countries will be investigated as well as their battles with the Palestinians and the Irish Republican Army respectively. In Chapter V, I will examine my findings and propose solutions.

## **II. THE FBI AND COUNTERTERRORISM**

Domestic counterterrorism in the United States has not been as troublesome as in other countries. This country has been fortunate because, in the past, it was geographically and economically difficult for international terrorists to operate successfully. Our fortunes have changed in the 1990s with the World Trade Center and Oklahoma bombings. These events have catapulted the FBI into the media spotlight and has the public speculating whether or not the FBI is equipped to deal with the increased threat. In this chapter, I will be examining the FBI's historical dealings with counterterrorism and their preparations for managing counterterrorism today.

### **A. HISTORY**

The Federal Bureau of Investigation (FBI) is responsible for the investigation and, if possible, the prevention of domestic terrorist activities. This is obviously a carry over from their early fight against gang crime and later, their dubious successes with their Counterintelligence Program (COINTELPRO). Although these activities usually did not involve outsiders, J. Edgar Hoover, the first director, considered gangs', communists', and hategroups' endeavors a form of terrorism against the Federal government.

The agency now known as the FBI was founded in 1908 when Attorney General Charles J. Bonaparte appointed an unnamed force of Special Agents to be the investigative force of the United States Department of Justice. Prior to that time, the Department of Justice borrowed agents from the United States Secret Service to investigate violations of

federal crime laws within its jurisdiction.<sup>26</sup> This special agent force was named the Bureau of Justice in 1909 and, after several other name changes, became the Federal Bureau of Investigation in 1935.

During the early period of the FBI's existence, its agents investigated violations of some of the comparatively few federal criminal violations which existed, such as bankruptcy frauds, antitrust crime, and neutrality violations. During the first World War, the Bureau was given responsibility for espionage, sabotage, sedition, and draft violations. Passage of the National Motor Vehicle Act in 1919 further broadened the Bureau's jurisdiction.<sup>27</sup>

After the passage of prohibition in 1920, the *Gangster Era* began. Criminals engaged in kidnaping and bank robbery, which were not federal crimes at that time. This changed in 1932 with the passage of a federal kidnaping statute and in 1934, when numerous other federal criminal statutes were passed and Congress gave Special Agents the authority to make arrests and to carry firearms.

The FBI's size and jurisdiction during the Second World War increased. With the end of the war and the advent of the Atomic Age, the FBI began conducting background security investigations for the White House and other government agencies, as well as internal security matters for the Executive Branch.<sup>28</sup>

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<sup>26</sup>*FBI Mission, History and Organization* (Internet, [www.fbi.gov](http://www.fbi.gov), 1995), pg. 1.

<sup>27</sup>*Ibid.*

<sup>28</sup>*Ibid.*, pg. 2.

Civil rights and organized crime became major concerns of the FBI in the 1960s, as did counterterrorism, white-collar crime, drugs, and violent crimes during the 1970s and 1980s. With the end of the cold war, the FBI now concentrates its investigative efforts in seven major programs: counterterrorism, drugs/organized crime, foreign counterintelligence, violent crimes, white-collar crime, applicant matters and civil rights.<sup>29</sup>

The FBI currently operates under a set of guidelines issued in 1983 by Ronald Reagan's Attorney General, William French Smith. The Smith guidelines were a modification of guidelines issued by Gerald Ford's Attorney General Edward Levi in 1976. The Levi guidelines were criticized as being too restrictive and cumbersome. Although the Smith guidelines were developed to rectify the Levi guidelines, they have come under the same criticisms lodged against the Levi guidelines.

The FBI's investigative mandate is the broadest of all federal law enforcement agencies. The FBI therefore has adopted a strategic approach which stresses long-term, complex investigations. The FBI's investigative philosophy also emphasizes close relations and information sharing with other federal, state, local, and foreign law enforcement and intelligence agencies. A significant number of FBI investigations are conducted in concert with other law enforcement agencies or as part of joint task forces.

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<sup>29</sup>*FBI: Mission, History, Organization*, pg. 2.

## **B. THE FBI AND COUNTERTERRORISM: THE EARLY YEARS**

The FBI's first foray into domestic counterterrorism began with their domestic Counterintelligence Program (COINTELPRO), an ill-fated, tragic, unconstitutional but highly successful effort. In 1936, President Franklin D. Roosevelt was monumentally concerned about the extremist political developments in Europe and Asia. He informed Hoover that he was worried about the influence these fascist and communist organizations would heavily influence extremist organizations in the United States. Hoover confirmed his fears and Roosevelt immediately ordered him to set in motion the machinery necessary to gather intelligence information on domestic communist and fascist organizations.<sup>30</sup>

Hoover reminded FDR that it was unconstitutional to spy on American citizens especially when they were not engaged in illegal activities. It was not illegal for a U.S. citizen to be a member of a communist or fascist organization. Under the FBI's Appropriations Act, however, they could undertake investigations of this type at the request of the secretary of state without going through Congress. A few days after that meeting, Hoover, Roosevelt and Secretary of State Cordell Hull met and set the stage for COINTELPRO. They could not foresee the havoc that would be wrought in the coming years; at that time, Roosevelt was only interested in monitoring activities. Eventually, operations monitoring political expression would be expanded to include disruption as well.<sup>31</sup>

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<sup>30</sup>James K. Davis, *Spying on America: The FBI's Domestic Counterintelligence Program* (New York: Praeger Publishers, 1992), pg. 26.

<sup>31</sup>*Ibid.*, pg. 26.

## 1. The CPUSA and COINTELPRO

Monitoring began with the Communist Party of the United States of America (CPUSA). Activity was vigorous but, by 1940, the United States entered the Second World War and Hoover believed that extended operations were justified. Electronic surveillance, mail openings and surreptitious entry became routine and because of these added activities, the FBI's budget expanded to become forty-five percent of the entire Justice Department. When the war ended, Hoover could not bear to loose such a large budget. Fate was with him because the Soviet Union had become the enemy of the United States and a "cold war" began.

By 1956, several events had become public which supported Hoover's claims that the Communist party was a threat and had to be neutralized. The Alger Hiss affair, the arrest and subsequent conviction of the Rosenbergs, the Korean War, the Soviet atomic bomb test and the McCarthy hearings all served to support Hoover's pronouncement that communism was "a menace to the American way of life." At the 279th meeting of the National Security Council on March 8, 1956, Hoover received authorization for the operations that later came to be known as COINTELPRO.<sup>32</sup>

The systematic destruction of the CPUSA began with the denial of communist infiltration into organizations such as the United Farm Workers and the National Organization for the Advancement of Colored People (NAACP). The obstruction of infiltration by communists into the NAACP and other civil rights organizations was a particular obsession

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<sup>32</sup>Davis, pg. 31.

with Hoover. Martin Luther King, Jr. was Hoover's particular target and he used COINTELPRO in a vigorous but futile effort to discredit King from 1957 until his death in 1968.

COINTELPRO stepped up its destruction of the CPUSA by adding anonymous mailings and infiltrations to the repertoire of dirty tricks. The FBI would identify a member of the CPUSA and inform his/her employer or the media through letters written by "concerned citizens." Infiltration was particularly successful and by the time the Communist Party was debilitated, agents and informants were actually making party policy. When COINTELPRO began in 1956, the Communist Party in the United States had a membership of approximately 22,000. By 1971, the figure was down to three-thousand members but many were passive and others were FBI informants.

## **2. The Ku Klux Klan and COINTELPRO**

In 1964, three members of the Council of Federated Organization, a civil rights group, were murdered by several Ku Klux Klan members near Meridian, Mississippi. The news that these workers were missing captured the attention of the country and was very much in keeping with the Klan's intention to spread terror throughout the south. President Johnson felt that this terror and the apparent kidnaping of these workers was an intolerable situation. The FBI was already aware of these events and had been contemplating instituting a

COINTELPRO against the KKK. When Johnson gave the word, the FBI was ready and moved.<sup>33</sup>

After two months of gathering intelligence against the Klan, the Intelligence division recommended the immediate initiation of a "hard hitting closely supervised coordinated counterintelligence program to expose, disrupt, and otherwise neutralize the Ku Klux Klan and specified other hate groups".<sup>34</sup> The techniques to be used were similar to those utilized against the Communist Party.

One very popular and successful technique involved sending anonymous or fictitious materials to Klan members. FBI informants operating within the Klan reported a dramatic impact on Klan morale. These mailings were used to create distrust, spread rumors, disrupt and neutralize Klan activities. One mailing method included a postcard featuring derogatory cartoons of KKK members with simple messages. These messages were designed to play upon the Klan's greatest strength, its secrecy, and were very effective.<sup>35</sup>

Another successful strategy was the "snitch-jacket" technique, which created an impression, through various communications media, that a Klan member was actually a police

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<sup>33</sup>Davis, pg. 75.

<sup>34</sup>Davis, pg. 76.

<sup>35</sup>Although the FBI had engaged in similar operations during the COINTELPROs against the Communist and Socialist parties, this did not make it lawful. They truly expanded the boundaries of unconstitutional behavior. The President and Hoover were aware of this and declined to inform the Attorney General, who had implemented specific guidelines against such behavior.

informant. This created distrust and in-fighting. A well-placed letter to a Klansman's employer was humiliating to that individual and also a successful deterrent.

Klan units were also heavily infiltrated by informants, which provided complete membership lists for those anonymous mailings and intimate information about members that would have normally been unobtainable. For example, an informant discovered that a Klan member was collecting one-hundred percent disability from the Veteran's Administration (VA) while running a small contracting business. The local field office contacted the VA and the Internal Revenue Service (IRS) with this information; the disability checks stopped immediately and the IRS made this man's life miserable. He certainly had no time to participate in Klan activities.

Although these operations successfully broke the back of the Ku Klux Klan, some infiltrations compromised the FBI. Gary Rowe was an employed informant for the FBI and because he rose very quickly in the Klan's hierarchy, his career came to an abrupt and tragic end on March 25, 1965. On that day, a civil rights rally took place in Montgomery, Alabama. Three Klan members and Rowe were assigned to monitor and, if possible, cause disruption.<sup>36</sup> As the men were driving through Selma, they noticed an out-of-state-car driven by a white female with a black male passenger. Mrs. Viola Liuzzo was a civil rights volunteer who was transporting demonstrators from Montgomery to Selma. The four men decided to follow Liuzzo's car as it headed toward Montgomery with the intention of "getting a black and a

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<sup>36</sup>Davis, pg. 92.

white together." Eventually, the Klan members and Rowe were able to move alongside Mrs. Liuzzo's car. They rolled down their windows and fired into her car. She died instantly but her passenger managed to keep the car under control and survived. Rowe maintained that he did not fire his weapon but he had been an accessory to the crime. He became the star witness against the three Klansmen who were convicted.<sup>37</sup>

Because of this incident, President Johnson exerted more pressure on Hoover to disrupt the Ku Klux Klan into oblivion. By 1968, the Ku Klux Klan was, for all practical purposes, decimated. Undercover informants like Gary Rowe participated in eighty-five percent of Klan actions. At one point, the FBI had so thoroughly infiltrated the Klan, Hoover briefly considered installing an informant at the top of the organization to make Klan policy.

When COINTELPRO ended, Klan membership had dropped from a high of 14,000 to four thousand. The murderous fury had been contained but it was done at the expense of the Constitution. In successfully containing and neutralizing the Ku Klux Klan, the FBI had violated such constitutional liberties such as the right to privacy and the right to assemble.

### **3. The Black Panthers and COINTELPRO**

The FBI did not limit their disruption methods to white hate groups. They targeted black nationalist hate groups as well. The incident that brought these groups to the forefront was an attempt by a motorcycle police officer to arrest a black man in Watts, a suburb of Los Angeles, for drunk driving. The man resisted and an angry crowd gathered. Additional

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<sup>37</sup>Ibid.

police contingents managed to keep the situation calm but the next day, the Watts neighborhoods exploded into racial disorder of such magnitude that sixteen-thousand law enforcement personnel including National Guardsmen moved in to restore order.<sup>38</sup>

President Johnson was devastated that his "Great Society" seemed to be disintegrating and he turned to the FBI for help. As it turned out, the FBI had been conducting microphonic surveillance on one black separatist group since 1960. It was very easy to increase its investigative powers to determine the origins and extent of the racial unrest. After riots in Newark and Detroit in 1967, Johnson ordered the FBI to "search for evidence of conspiracy." The next COINTELPRO was developed against this backdrop and the object was to "expose, disrupt, misdirect, discredit or otherwise neutralize the activities of black nationalist hate type organizations." In order to ensure that the riots reduced, Hoover continued to increase his Black Hate COINTELPRO among his field offices. The program seemed to be just as successful as the one run against the Ku Klux Klan but for some unknown reason, they underestimated the most dangerous group.<sup>39</sup>

The Black Panther party was founded by Huey Newton and Bobby Seale, two college students in Oakland in October 1966. Its purpose was to provide a unified black response to perceived police brutality in the Oakland area. Many blacks felt they were living in a colony ruled by white police.

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<sup>38</sup>Theodore White, *The Making of the President 1968* (New York: Atheneum Publishers, 1969), pp. 25-27.

<sup>39</sup>Davis, pg. 98.

Panther members began to appear in public carrying weapons but their first official action was directing traffic so that children could cross a busy street safely to get to school. They expanded their duties to include patrolling the crime-infested slums of Oakland, protesting rent evictions of African Americans and counselling welfare recipients. They also monitored the actions of the Oakland Police Department and worked with African American prisoners.

They stepped into the national arena when forty members boldly entered the California State Legislature fully armed, in battle dress to protest a bill that would outlaw carrying loaded weapons in public. They were all arrested but they became a household word overnight.

In October 1967, the Black Panthers collided head-on with Oakland police. Huey Newton and another Panther were stopped for a routine traffic violation. Newton got out of the car and shooting erupted. Newton was shot four times but survived. One police officer was killed in the *mélee* and Newton went to prison. In spite of the Panthers' propensity for violence and their growing national reputation, the FBI did not bother to target them in this new COINTELPRO.<sup>40</sup>

Confrontations between the Panthers and the police increased and still the FBI did not react. The San Francisco field office resisted including them in COINTELPRO because the field agents did not think the tactics used would be effective. Eventually, because of the

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<sup>40</sup>Davis, pg. 104.

tremendous news coverage devoted to the Panthers, FBI headquarters overruled this decision. The public wanted to know what the FBI was doing about these threatening exploits and the FBI had no choice but to include them into the COINTELPRO target list. By 1968, Hoover described the Panthers as "the greatest threat to the internal security of this country."<sup>41</sup>

As mentioned previously, the number one goal in this COINTELPRO was to prevent the unification of the black hate groups. Consolidation seemed to be Hoover's greatest fear. Goal number three called for the prevention of violence but most COINTELPRO actions achieved the opposite result. In fact, this COINTELPRO generated the most violence of any run by the FBI. By 1971, when all the COINTELPROs ended, the Black Panthers had been decimated due to violent death, exile and arrest.<sup>42</sup>

COINTELPRO came to an ignominious and explosive end when a small group of burglars broke into an FBI field office in a Philadelphia suburb and stole one-thousand documents detailing the FBI's domestic intelligence operations within the United States. The burglars, calling themselves the Citizens' Commision to Investigate the FBI, felt that these clandestine operations were reprehensible and served no useful purpose in a democratic society. They believed they were justified in committing a crime to expose a crime.

When Hoover was finally informed of this break-in, he was livid. The sacred walls of the FBI had been breached and classified documents had been professionally stolen by an

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<sup>41</sup>Ibid., pg. 105.

<sup>42</sup>Davis, pg. 123

unknown group. He mounted the largest investigation to discover the identity of the perpetrators but they were never apprehended. The documents were distributed to every major newspaper in the United States, but at the request of Attorney General Mitchell, *The New York Times* and the *Los Angeles Times* refrained from printing the documents. *The Washington Post*, however, deemed that this was a "significant matter of public controversy" and went ahead with the story. This was the darkest period in the existence of the FBI.<sup>43</sup>

#### **4. The US Military and Law Enforcement**

In the late 1960s, the military worked closely with state and local police and National Guard units to coordinate scenarios for the implementation of martial law. Senator Sam Ervin's Constitutional Rights Subcommittee discovered a master plan called *Garden Plot* which was too unspecific to concern Ervin. Several years later a freelance journalist uncovered a sub-plan of *Garden Plot* called *Cable Splicer* which involved the Sixth Army.

*Cable Splicer* was developed in a series of California meetings from 1968 to 1972, involving Sixth Army, the Pentagon, National Guard generals, police chiefs, sheriffs, military intelligence officers, defense contractors and telephone and utility company executives. The participants played war games using scenarios that began with racial, student and labor unrest and ended with the Army being called in to bail out the National Guard, usually sweeping the area to confiscate private weapons and round up likely troublemakers. These games were

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<sup>43</sup>Davis, pg. 123.

conducted in secret, with the military personnel dressed in civilian clothes and arriving in nonmilitary transportation.<sup>44</sup>

The United States Army's Counterintelligence Analysis Branch compiled organizational files, personality files, mug books and "black lists", resulting in more than 117,000 documents. There were other filing systems in other locations maintained by other elements of the military intelligence bureaucracy. The United States Army Intelligence Command (USAINTC) had a network of fifteen-hundred agents stationed in over three-hundred posts scattered throughout the country. These posts were stocked with communications equipment, tape recorders, cameras, lock-picking kits, lie detectors and interview rooms with two-way mirrors.<sup>45</sup>

They also had direct lines to local police departments, teletype machines to field intelligence units, situation maps, closed-circuit television, and secure radio links. A one-hundred eighty man command center was created in 1968 after the assassination of Martin Luther King and the riots that followed. Its primary targets were colleges and universities.

The Ervin subcommittee reported that military intelligence groups conducted offensive operations against anti-war and student groups, but the Pentagon refused to declassify the relevant records. Presumably they never reached the intensity of the FBI's COINTELPRO. When USAINTC's domestic surveillance activities were publicly disclosed in the early 1970s,

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<sup>44</sup>Daniel Brandt, "The 1960s and COINTELPRO: In Defense of Paranoia", *Name Base Newsline*, Number 10, July - September 1995, pg. 3.

<sup>45</sup>Brandt, pg. 3.

public indignation and political reaction caused the Command's activities to be sharply curtailed. In 1974, USAINTC ceased to be a major Army command. This was clearly a violation of the Posse Comitatus Act.

### **C. THE FBI AND COUNTERTERRORISM TODAY**

The FBI, as the lead Federal law enforcement agency in the fight against terrorism, defines terrorism as "the unlawful use of force or violence against persons or property to intimidate or coerce a government, the civilian population, or any segment thereof, in furtherance of political or social objectives." The FBI's counterterrorism mission is to identify and neutralize the threat in the United States posed by terrorists and their supporters, whether nations, groups, or individuals. The FBI categorizes terrorism as either domestic or international depending on the origin, base and objectives of the terrorist organization/individual. Domestic terrorism comes under the FBI's auspices.<sup>46</sup>

Acts constituting terrorism include terroristic assassination, hijacking, kidnaping, hostage-holding, bombing, arson, armed attack, and extortion. Because major acts of terrorism are violations of both state and federal law, concurrent criminal jurisdiction is the rule. Accordingly, the federal government can either act or defer to state jurisdiction and action depending on the nature of the incident and the capabilities of local authorities to deal

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<sup>46</sup>Department of Justice, *Terrorism in the United States, 1994* (1995), pg. 57.

with it. Appropriate federal law-enforcement assistance and support would be rendered upon request if local authorities are in charge.<sup>47</sup>

The initial tactical response to a terrorist incident is made by the FBI Special Agent in Charge (SAC) at the scene. In describing the FBI's capabilities for responding to a domestic terrorist incident, former Deputy Attorney General Benjamin R. Civiletti assured the Congress that "the government's capabilities to meet the kinds of terrorist acts likely to occur inside the United States are sound and sufficient". He also believed that "the plans and procedures for meeting and effectively handling such incidents do not involve any infringement, dilution, or disregard of civil and Constitutional rights."<sup>48</sup>

The FBI possesses a wide range of capabilities to deal with possible domestic terrorism. Each FBI office and headquarters has contingency plans that go into effect when a terrorist incident occurs. Such plans are the cornerstone from which all other responses or actions will follow. They include, for example, the chain of command, communications both within and outside the FBI, and the availability for specialized equipment and personnel.

In cases of involving hostage negotiations, teams of trained and experienced psychologists are available to provide on-the-scene psychological terrorist profiles and analyses to FBI hostage negotiators. The knowledge and experience gained by such teams is shared with local law enforcement agencies through training sessions.

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<sup>47</sup>Motley, pg. 40.

<sup>48</sup>Motley, pg. 43.

Another asset that equips the FBI to respond to terrorist acts is the Special Operations and Research Unit (SOAR). This group of FBI special agents is trained in psychology and criminology. The function of the SOAR unit is to accumulate and analyze facts about terrorist incidents and through papers, articles, seminars, and training sessions, to pass on to other law-enforcement bodies guidance on dealing with terrorism.

International terrorists operating in the United States are considered hostile foreign agents and are investigated under the Attorney General Guidelines for Foreign Intelligence Collection and Foreign Counterintelligence Investigations. These investigations are the responsibility of the FBI's Intelligence Division.<sup>49</sup>

Domestic terrorist groups originating in the United States are investigated pursuant to the Attorney General guidelines on General Crime, Racketeering Enterprise, and Domestic Security/Terrorism investigations. Investigations of domestic terrorism are conducted under the Domestic Terrorism Subprogram of the Criminal Investigative Division's Violent Crime and Major Offenders Program.<sup>50</sup>

The Counterterrorism Program (CTP) is responsible for preventing, interdicting, and investigating the violent acts and criminal manifestations of terrorist groups and individuals involved in terrorism and related activities. Therefore, the CTP activities can be broken down into two primary areas: (1) the prevention of terrorism through the timely development of

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<sup>49</sup>Department of Justice, pg. 57.

<sup>50</sup>Ibid.

intelligence which is augmented by an exchange of information between the FBI and other agencies, both in this country and abroad, and (2) reaction to terrorist activity through criminal/counterterrorism investigations and other law enforcement options designed to arrest and convict terrorist groups' members and individuals who perpetrate other criminal acts related to terrorist activities.

Counterterrorism investigations are undertaken to detect, prevent, and/or react to unlawful, violent activities of individuals or groups whose intent is to overthrow the government; interfere with the activities of a foreign government in the United States; substantially impair the functioning of the Federal Government, a state government, or interstate commerce; or deprive Americans or their civil rights as guaranteed by the Constitution, laws, and treaties of the United States. These criminal acts include violations of the Protection of Foreign Officials, Neutrality, and Extortion statutes, as well as firearms and explosives laws. Also, as a result of the passage of the Comprehensive Crime Control Act of 1984 (Title 18, USC, Section 1203, entitled "Hostage Taking"), the FBI acquired jurisdiction and authority to act, where appropriate, in certain terrorist-related hostage situations both within this nation and internationally.<sup>51</sup>

Although the recorded number of actual terrorist incidents and terrorist incidents prevented in the United States has generally declined, this favorable trend should not be regarded as a signal that eradication of violent terrorism is close at hand. More properly, the

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<sup>51</sup>Department of Justice, pg. 58.

reduction in terrorist incidents in the United States closely corresponds to the FBI's acceleration of an all-out counterterrorist effort which has been characterized by the steady commitment of resources, enhanced counterterrorism training and more efficient use of an increasingly effective intelligence base. The success of the FBI in this regard is even more evident when the rather few incidents of terrorism in the United States are compared against the number committed worldwide. The FBI has therefore concluded that any relaxation in their current efforts to counter terrorist activities within the United States could be detected by terrorists and may result in a reversal of what has otherwise been a sustained downturn in violent terrorist activity.<sup>52</sup>

The FBI is committed to a program of intensified investigative activity which will (hopefully) continue to successfully counter the violent intentions of terrorist organizations deployed in the United States. The arrest, prosecution and incarceration of key leadership elements of various terrorist organizations coupled with successful preventive measures has significantly contributed to the decline in the number of terrorist incidents committed in the United States. It would, however, be incorrect to conclude from these counterterrorism been permanently eradicated.

The United States, because of its size, porous borders, open society, and official involvement in the global political arena, is constantly vulnerable to terrorist attacks in the United States in response to U.S. foreign policy initiatives or out of desire to neutralize

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<sup>52</sup>Department of Justice, pg. 57.

dissident behavior which may appear in emigré communities. Terrorist attacks by domestic terrorist groups also continue to occur because perceived social and political conditions have not changed to their satisfaction. Therefore, the FBI must fully maintain its aggressive counterterrorism initiatives both at home and abroad.<sup>53</sup>

In any given year, the FBI engages in approximately two dozen full domestic terrorism investigations. Over the years since the Smith guidelines were adopted, nearly two-thirds of these full investigations were opened before a crime had been committed. The FBI has investigated right-wing, anti-government, anti-tax, paramilitary and militia groups under this authority. They have been successful in preventing terrorist acts before they occurred. In 1993, for example, the FBI arrested several skinheads in Los Angeles after a lengthy investigation determined that they had been discussing and planning attacks on an African American church, Jewish targets and other religious targets.

On February 26, 1993, a massive explosion occurred in the garage area beneath the Vista Hotel, located at the World Trade Center complex in New York City. The bomb that caused the explosion consisted of approximately twelve-hundred pounds of explosives, making it one of the largest homemade bombs ever seen in the United States. Six persons were killed and approximately one thousand injured as a result of the attack.

Four of the six defendants indicted were convicted on all thirty-eight counts against them, including conspiracy to bomb targets in the United States, the bombing of the World

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<sup>53</sup>Ibid., pg. 59.

Trade Center, and the use of explosive devices. They were each sentenced to two-hundred forty years in prison and fined.

A raid on a North Wildwood, New Jersey hotel by FBI Agents and local law enforcement officers on July 22, 1993 resulted in the arrest of Matarawy Mohammed Said Saleh. He was charged with conspiracy to bomb several sites in New York City. The group, of which he was a part, had targeted the headquarters of the United Nations, the federal building which houses the New York FBI office, the Lincoln and Holland tunnels, Egyptian President Mubarak during his 1993 visit to New York, and at least two U.S. political figures.

In 1994, the FBI scored a coup against the Abu Nidal organization in the United States. Three men were apprehended and subsequently pled guilty to conspiring to participate in a terrorist organization. This group smuggled, transferred, and transported currency, information, and intelligence to other members of the Abu Nidal organization and throughout the world. This group also obstructed investigations, fraudulently obtained passports for the members, bought weapons, and collected intelligence information.

In terms of domestic terrorism, two persons on the top ten fugitive list surrendered to the FBI in Chicago on December 6, 1994. Claude Daniel Marks and Donna Jean Willmott had been sought for eight years for assisting in an escape plan to liberate Oscar Lopez from the United States Penitentiary at Leavenworth, Kansas. Lopez is a leader of the Armed Forces of National Liberation (FALN), a clandestine Puerto Rican terrorist group based in the continental United States. Since 1974, the FALN has been responsible for causing five deaths, eighty-four injuries and over \$3.5 million in property damages.

A new development concerning terrorism within the United States has been the emergence of International Radical Terrorism (IRT). IRT may be defined as any extremist movement or group, which is international in nature and conducts acts of crime or terrorism under the banner of personal beliefs in furtherance of political, social, economic or other objectives. The FBI believes that along with continuing state sponsorship of international terrorism, IRT poses a significant threat to U.S. national security. The ever-present threat posed by state sponsors of terrorism to U.S. interests cannot be discounted. These nation-states continue to use violence and fear in an attempt to bring about their demands. In fact, the phenomena of IRT continues to flourish, in part, due to the support provided by sovereign states such as Iran and Sudan.<sup>54</sup>

Changing world conditions have also affected domestic terrorism within the United States. The threat from terrorism increases as changes occur within global politics which could have an undesirable effect on terrorists or their supporters. Within the 1990 through 1994 time frame, events such as the ongoing Middle East peace process, the Provisional Irish Republican Army (PIRA) cease-fire agreement with the British Government, and the fall of the Soviet Union have each had a profound effect on terrorism.<sup>55</sup>

Should the cease-fire agreement between PIRA and the British Government hold, or lead to further peace initiatives, this could radically change the face of terrorism in Great

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<sup>54</sup>Department of Justice, pg. 7.

<sup>55</sup>Ibid.

Britain and impact on the United States, where many supporters of PIRA have been known to solicit funds and attempt to procure weapons to support PIRA's goals. Further, terrorists who once enjoyed financial support from some former Soviet-Bloc states are now on their own with the collapse of the Warsaw Pact.

Other political changes in global politics may also lead to a greater terrorist threat in the United States. Since the beginning of the historic Middle East peace talks in October 1991, Palestinian terrorist groups, Israeli right-wing organizations and radical Middle East governments which oppose these negotiations have threatened to derail the peace dialogues. These "rejectionists" have threatened to use any means available, including violence to impede the peace process. The threat posed to the United States, which has taken a lead in this peace initiative, is ever present.

#### **D. FBI SOLUTIONS**

For the most part, U.S. law enforcement initiatives have been somewhat successful at deterring individuals or groups engaged in terrorist activity from committing acts of terrorism against U.S. interests. Within the past five years, the U.S. counterterrorism response has successfully taken an aggressive approach to the problem of terrorism. Through this heightened proactive response, the FBI aggressively undertakes to identify and interdict the activities of terrorists before they strike.

This preventative phase involves acquiring, through legal means, intelligence information related to groups or individuals who would choose terrorism as a means to threaten or attack Americans, U.S. interests, or foreign nationals within the United States.

The information acquired is carefully analyzed, appropriately disseminated, and effectively used to prevent terrorist acts before they occur. The 1993 arrests of the New York City bomb conspirators demonstrates the effectiveness of this proactive approach. A potentially devastating series of bombings was averted.

U.S. law enforcement agencies are unable to prevent all acts of terrorism. When terrorist acts do unfortunately occur, the FBI and other law enforcement agencies have engaged in effective investigations which have resulted in successful criminal prosecutions. Successes such as the World Trade Center bombing investigation, which culminated in arrests, convictions, and imprisonment, and the Oklahoma investigation send a signal to would-be terrorists that the United States is a hostile environment for terrorists and that individuals willing to engage in criminal activities of this nature will not be tolerated.

In addition to law enforcement initiatives, past success in the U.S. government's battle to eradicate the terrorist threat can be attributed, in a large part, to a joint counterterrorism effort among U.S. law enforcement agencies, luck and two oceans. This coordinated effort has led to the formation of joint terrorism task forces. Additionally, increased cooperation among U.S. government agencies and departments with counterterrorism responsibilities has also lead to greater information sharing.

An example of law enforcement agencies working together can be found in Texas. A number of agencies in the central Texas region have joined together in a cooperative effort to address domestic terrorism. The Central Texas Counterterrorism Working Group

(CTWG) represents a proactive effort to respond to the threat of terrorism in an area of the United States brimming with strategic commercial sites and important military installations.<sup>56</sup>

Past terrorist activity in the central Texas region demonstrates the need for a coordinated approach to counterterrorism. For years, the region served as the base of operations and support for several domestic terrorism groups. These ranged from right-wing, white supremacist groups to left-wing cells, such as the May 19 Communist Organization (M19CO). Several cases have illustrated the belief among terrorists that the Central Texas region represents a safe haven from apprehension. One case involved Richard Scutari, head of security for the white supremacist group, the Order and one of the FBI's Top Ten Most Wanted fugitives for his part in the June 1983 murder of a talk show host in Denver, Colorado. After the slaying, Scutari fled Colorado for central Texas, where fellow white supremacists provided him refuge. His subsequent capture in San Antonio, Texas, demonstrated the attraction of the area to domestic terrorists.

Members of the violent May 19 Communist Organization (M19CO) continue to maintain an active presence in the area. The group's affiliation with the central Texas region dates back to the turbulent 1960s, when it operated freely among the less organized elements of the antiwar, antiestablishment movement. While these movements declined as the Vietnam War drew to a close, M19CO diversified into domestic terrorism and directly assisted in

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<sup>56</sup>Byron A. Sage, Mack Wallace and Carolyn Weir, *The Central Texas Counterterrorism Working Group* (Internet, [www.](http://www.), 1995), pg. 1.

staging a series of criminal acts, ranging from armored car robbery and murder to the November 1983 bombing of the U.S. Capitol Building in Washington, D.C.

Of the seven individuals responsible for the Capitol bombing, three were from Austin, Texas and affiliated with M19CO's Austin cell. This cell was responsible for thefts of high explosives from the central Texas region. These explosives ultimately were used in the bombings in Washington, D.C., New York City, and sites throughout the nation's northeast. A number of M19CO members continue to live in the central Texas region and could conceivably provide support to other members.

The Central Texas Counterterrorism Working Group initially formed in 1987 as a joint project by the San Antonio Office of the FBI, the Texas Department of Public Safety, and the Texas Railroad Commission to identify terrorist groups, activities, and potential targets of opportunity in the central region of Texas. This group is comprised of forty-six law enforcement agencies representing Federal, State, and local levels of jurisdiction. These agencies range from local metropolitan police departments and county sheriff's offices to the State's Department of Public Safety, the Texas Ranger Service, and the FBI.<sup>57</sup>

During the eight years of this group's existence, they have met bimonthly in those locations that may provide targets of opportunity such as nuclear power plants and military installations. In addition to these meetings, the FBI has hosted joint training seminars which have focused on such topics as international terrorism, with guest speakers ranging from the

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<sup>57</sup>Byron A. Sage, et al., pg. 2.

Israeli government and academic officials to leaders of Islamic mosques. These seminars have also addressed domestic terrorism issues, with a primary focus on right-wing, white supremacist groups. These particular seminars have included speakers from undercover officers and case agents to the Grand Dragon of the Texas Knights of the Ku Klux Klan.

The Central Texas Counterterrorism Working Group grew out of a need to provide proactive counterterrorist security to a particularly vulnerable region of the nation. The key to its success is the high degree of cooperation that exists among the group's members as they share information and expertise to enhance the security of the entire region. This concept of informed preparedness could form the basis for similar interagency counterterrorism working groups in other regions of the nation.<sup>58</sup>

Legislative initiatives have greatly aided the FBI in its counterterrorism mission. Congress has played a vital role in this success by providing appropriate legal tools, in particular legislation entitled the Comprehensive Crime Control Act of 1984 and the Omnibus Diplomatic Security and Antiterrorism Act of 1986. These acts greatly expanded FBI jurisdiction to include investigation of terrorist acts abroad. More recently, the Aviation Security Improvement Act of 1990 has resulted in security enhancements at U.S. airports to ensure the safety of domestic air transportation systems. This act also ensured a greater cooperative effort between the FBI and the Federal Aviation Administration.

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<sup>58</sup>Ibid., pg. 3.

Many members of international terrorist groups are reluctant to carry out an attack in the United States. This reluctance may be due, in part, to the fear of jeopardizing their current immigration status; fund-raising capabilities; recruitment opportunities; propaganda activities to support their cause; and freedom of assembly within the United States. Many of the individual who are members of international terrorist groups are fleeing crackdowns from their home governments and have sought the safe haven or refuge which is available to immigrants and asylum seekers here in the United States. They live in freedom in the United States and continue activities in support of their cause, which may entail the use of propaganda activities to attract new members or supporters of their cause. Should they commit a violent act in which persons are injured or killed or property destroyed, they might alienate themselves and gain disfavor from individuals they are attempting to attract to their cause. Should they lose public sympathy or support then they also stand to lose the financial support upon which they may have come to rely on heavily.

There has been a decrease in Puerto Rican terrorism. In the past, Puerto Rican terrorist groups struggling for Puerto Rico's independence from the United States have been responsible for the majority of terrorist incidents perpetrated by domestic terrorist groups within the United States. During the last five years, the number of incidents committed by Puerto Rican terrorist groups has steadily declined. In 1990, five terrorist acts were committed by Puerto Rican terrorist groups in the United States and Puerto Rico; in 1991, the number of incidents decreased yet again to four and in 1992, the number of incidents decreased yet again to one act of terrorism. During 1993 and 1994, no acts of terrorism were

committed by Puerto Rican terrorist groups. This apparent decrease may be due, in part, to the November 1993 political plebiscite held in Puerto Rico in which a plurality of Puerto Ricans voted to maintain their commonwealth status. The results of this plebiscite appear to have deflated the independence movement of Puerto Rican nationalists, of whom only a very small, but militant faction, condone the use of terrorism as the primary method of operation.<sup>59</sup>

The threat posed by other terrorist groups has remained constant. During the past five years, there have been twelve incidents of terrorism associated with groups such as the Animal Liberation Front, Up the IRS, and the Earth Night Action Group. These groups, loosely defined as "special interest" terrorist groups, seek specific issue resolutions rather than widespread political changes. While the causes they promote may not be criminal, the means they use, violence and destruction, to attain their goals, are. These individuals differ from traditional law-abiding special interest groups through their utilization of criminal activity and violence as a means of achieving their goals.

The FBI also defines other acts of criminal violence as acts of terrorism. Violent attacks perpetrated against abortion clinics and their personnel may, in fact, be terrorist-related. As a result of the recent acts of violence targeted at abortion clinics, the Attorney General directed that the Department of Justice Task Force on Violence Against Abortion Providers be formed to actively investigate a possible criminal conspiracy to commit acts of violence against abortion doctors and/or their clinics. The FBI is part of this Task Force

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<sup>59</sup>Department of Justice, pg. 10.

which is also comprised of the Bureau of Alcohol, Tobacco, and Firearms, the US Marshals Service and criminal and civil rights attorneys from the Department of Justice.<sup>60</sup>

The Attorney General Guidelines (AGG) states that a domestic security/terrorism investigation may be initiated when facts or circumstances reasonably indicate that two or more persons are engaged in an enterprise for the purpose of futhering political or social goals wholly or in part through activities that involve force or violence and a violation of the criminal laws of the United States.

Given this narrow definition by the AGG, the majority of abortion-related investigations are not classifiable as "terrorist incidents." In many of the incidents, the perpetrator(s) are not identified. However, when the investigation reveals that two or more individuals are conspiring, the investigation is, at that point, reclassified as a domestic terrorism case and is then investigated by the task force.<sup>61</sup>

Although the FBI is investigating abortion clinic crimes to determine their status as a terrorists, some pro-choice individuals consider those actions as terroristic whether or not they follow the Attorney General's Guidelines. Historical parallels have been drawn between anti-abortionists and opposers of civil rights. African American voters were harrassed as are those women seeking legal abortions. Legislation was passed that made it more difficult for African Americans to vote; attempts have been made to overturn *Roe v. Wade*. Some African

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<sup>60</sup>Department of Justice, pg. 19.

<sup>61</sup>Department of Justice, pg. 19.

Americans were lynched or shot for being "uppity" because they continued to seek their rights; patients at abortion clinics are harassed. Houses owned by African Americans and churches they attended were bombed indiscriminately as are the abortion clinics.

This harassment was allowed to continue until the Federal government realized that establishing a civil rights law was not a guarantee that civil rights would be granted. They sent in the National Guard to protect African Americans at the polls and passed stronger laws so that African Americans could vote safely. Before this happened, the Federal government either completely ignored the situation or said it was a local issue.

Pro-choice individuals also believe that until the anti-abortion groups organized under banners such as Operation Rescue, these terrorist tactics did not exist. As with the Ku Klux Klan, these groups spout rhetoric that incite fringe members to heinous actions; money flows into these groups but no one knows from where; some of these groups are supported by religious organizations who disavow any knowledge when violence occurs; and these groups tend to argue and operate based on fear and emotion.

Terrorist groups categorized as "right-wing" are defined as being racist, anti-Semitic and are for the advancement of the white race. In addition to advocating white supremacy and hatred of non-white races, these groups have also engaged in acts of provocation and assault against federal and state law enforcement officials. Groups such as *Aryan Nations*, *the Order* and *Posse Comitatus* fall into this category. The most significant instances of right-wing terrorism during the last five years occurred in July 1993, when members of the American Front Skinheads attempted to bomb the National Association for the Advancement

of Colored People headquarters in Tacoma, Washington. The bombing of the Oklahoma City federal building in April 1995 and the derailment of the Amtrak train in Arizona in August 1995 were allegedly committed by individuals who may have been associated with paramilitary right-wing groups.

Left-wing domestic terrorism is usually defined as being Marxist-Leninist in orientation. Groups such as the *African National Ujammu*, the *Dar-Ul Movement* and the *Ansaru Allah Community* are defined as being leftist in orientation. Many of the Puerto Rican terrorist groups such as the *Armed Forces of National Liberation* and the *Macheteros* also fall into this category. Left-wing terrorism has continued to decline over the past five years which may be due to the extensive number of arrests of the leftist groups' leaders during the 1980s.

Bands of right-wing militants, most calling themselves "militias" are becoming an increasing concern to the FBI. Although they have no centralized structure, there are linkages among some of them, consisting of sharing propaganda materials and speakers.

The aims of these militias, often stated bellicosely, involve laying the groundwork for massive resistance to the federal government and its law enforcement agencies as well as opposition to gun control laws. According to the adherents, America's government is the main enemy (among others), constantly increasing authoritarian control and contemplating warfare against unsuspecting American citizens. Gun control legislation is the major strategy in a secret government conspiracy to disarm and control the American people and abolish

their Constitutional "right to bear arms." The fear of government confiscation of their weapons is a paramount concern.<sup>62</sup>

Although gun control is the primary concern of most of the militias, there is also a movement to turn back the clock on federal involvement in other issues such as education, abortion and the environment. Some of the leaders are also known racists, religious bigots and/or political extremists. In some northwest militia groups, for example, there are militia leaders with backgrounds in the *Aryan Nations* movement, Neo-Nazi groups and the Ku Klux Klan. Currently, the Anti-Defamation League has found active militias in no fewer than thirteen states and even though these militias seem to be primarily concerned with gun control, racist and anti-Semitic dialogue crops up more and more.

Beginning in May, 1978, a series of bombing incidents have occurred across the United States for which there is no apparent explanation or motive. No person or group has been identified as the perpetrator(s) of these incidents. The explosions have taken place in eight states from Connecticut to California and, as a result of these bombings, three individuals have been killed and twenty-three injured. Between 1987 and 1993, these bombings stopped but that changed in June, 1993 when a well-known geneticist in California and a renowned computer scientist at Yale University opened packages which had been mailed to them and were severely injured by the explosions that resulted. Eighteen months later an advertising executive was killed in New Jersey followed by another explosion that killed a

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<sup>62</sup>Irwin Suall et al, *Armed and Dangerous: Militias Take Aim at the Federal Government* (Anti-Defamation League, 1994) pg. 2.

timber industry lobbyist in Sacramento, California on 24 April 1995. As of this date, the perpetrator(s) are still at large.<sup>63</sup>

On February 10, 1995, a counterterrorism bill drafted by the Clinton Administration was introduced in the Senate and the House of Representatives. There has been opposition to this bill based on several issues. Some senators and representatives believe that this legislation would:

1. Authorize the Justice Department (meaning the FBI) to pick and choose crimes to investigate and prosecute based on political beliefs and associations;
2. Repeal the provision barring the U.S. military from civilian law enforcement;
3. Expand a pre-trial detention scheme that puts the burden of proof on the accused;
4. Loosen the carefully-crafted rules governing federal wiretaps, in violation of the Fourth Amendment;
5. Establish special courts that would use secret evidence to order the deportation of persons convicted of no crimes, in violation of basic principles of due process;
6. Permit permanent detention by the Attorney General of aliens convicted of crimes, with no judicial review;
7. Give the President unreviewable power to criminalize fund-raising for lawful activities associated with unpopular causes;
8. Renege on the Administration's approval in the last Congress of a provision to insure that the FBI would not investigate based on First Amendment activities; and

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<sup>63</sup>Department of Justice, *UNABOMB: Series of Unsolved Bombings* (Internet, [www.fbi.gov](http://www.fbi.gov), 1995), pg. 1.

9. Resurrect the discredited ideological visa denial provisions of the McCarran Walter Act to bar foreign speakers.<sup>64</sup>

In the wake of the Oklahoma bombing, the Administration has pressed Congress to pass the counterterrorism bill but reluctance is still prominent. Despite this opposition, *The New York Times* reported the FBI recently proposed a national wiretapping system which would give law enforcement officials the capacity to monitor one of every one-hundred telephone lines in high-crime areas. Privacy rights advocates oppose this proposal, stating that this surveillance ability would far exceed the current needs of law enforcement officials around the country. In recent years, these officials have conducted an annual average of less than eight-hundred fifty court authorized wiretaps or fewer than one in every 174,000 telephone lines. This plan would require Congressional approval (unlikely) and would still require a court warrant to conduct the wiretaps. Privacy rights advocates fear a Big Brother surveillance capability might encourage law enforcement officials to use wiretapping much more frequently as an investigative tool.<sup>65</sup>

In a letter to Congressman Henry Hyde, the Chairman of the Committee on the Judiciary, Louis Freeh, the FBI director, rebutted this report. He reiterated that Congress did not expand the FBI's authority to conduct wiretaps nor did the FBI ask Congress to do so.

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<sup>64</sup>Center for National Security Studies, *Clinton Terrorism Legislation Threatens Constitutional Rights* (Internet, [www.cnss.com](http://www.cnss.com), 1995), pg. 1.

<sup>65</sup>John Markoff, *FBI Proposes Huge Wiretapping System*, New York Times, November 2, 1995.

The new law requires the FBI, on behalf of all law enforcement, to work with the telephone industry to identify technical design requirements for industry to build into their systems. The FBI has not asked for the ability to monitor one out of every one-hundred telephone lines because it would be impossible to obtain that many court orders.<sup>66</sup>

Other FBI officials have asserted that the FBI is severely restricted in infiltrating known extremist groups, that it has no terrorism data base like the Central Intelligence Agency's and that it is powerless to stop extremist groups from masquerading as "religious groups".

All of these claims are incorrect. The Smith guidelines, mentioned previously, make it absolutely clear that the FBI does not have to wait for blood in the streets before it can investigate a terrorist group. The guidelines expressly state: "In its efforts to anticipate or prevent crimes, the FBI must at times initiate investigations in advance of criminal conduct."<sup>67</sup>

## **E. TRENDS**

The lack of domestic terrorist activity until 1995 can be explained as a response to world events. Puerto Rican terrorism is dormant as a result of the political plebiscite in which Puerto Ricans voted to remain a commonwealth. This vote took the impetus out of the FALN's terrorist campaign for independence. Special interest terrorist groups, which include violent arms of environmental and animal rights activists, still remain a potential threat to U.S.

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<sup>66</sup>Louis J. Freeh sent this letter to Henry Hyde to explain how the New York Times had twisted the FBI's public notice, explaining their collaboration with the telephone industry.

<sup>67</sup>Department of Justice, pg. 6.

interests. Criminal acts perpetrated against abortion services providers are currently being investigated by a DOJ Task Force to determine whether a conspiracy exists.

Several international terrorist groups continue to maintain or increase their presence in the United States. These groups continue to infiltrate its members into the country via legal and illegal means. Despite their pronounced hatred for the United States and its policies, these groups perceive it as a fertile environment for fundraising and recruitment. They are aware of the open, innocent-until-proven-guilty nature of this country where criminals as well as victims have rights. The Constitution provides them protection from government prosecution.

Loosely-affiliated groups of radical terrorists, like the one comprised of individuals who conspired in the bombing of the World Trade Center, remain a primary concern to the FBI. These groups are difficult to identify and do not easily conform to the rigid categorizations typically used by western law enforcement organizations. Radical terrorist groups could potentially avoid detection until they had carried out a terrorist act. Membership is fluid, with the leadership or chain of command not readily identifiable.

Until the World Trade Center bombing, international terrorist acts within the United States were rare and may remain so. That incident, however, shattered the illusion that the United States is immune from terrorism and the reality was punctuated by the Oklahoma and Arizona events.



### III. ISRAELI INTELLIGENCE AND DOMESTIC COUNTERTERRORISM

#### A. HISTORY OF DOMESTIC COUNTERTERRORISM IN ISRAEL

In the last chapter, I discussed the FBI and the various domestic counterterrorist programs that have been implemented in earlier years. In this chapter, I will be looking at what has been acknowledge as the world's foremost authority on domestic counterterrorism and security. Long before Israel petitioned for independence in 1948, it was obvious to the British and the Arabs living in the area that a homeland was in the making for emigrating Jews. To the British, this meant yet another inconvenience in a land of uncertainty and instability but to the Arabs living there, this was intolerable.

Several terrorist incidents actually took place before Israel's statehood. On April 15, 1936 several armed Palestinians blocked a road and stopped about twenty vehicles to demand money for weapons and ammunition. One vehicle, a truck carrying crates of chickens to Tel Aviv, had a Jewish driver and a Jewish passenger. A third Jew was in another vehicle. For reasons known only to them, the Palestinians rounded up the three men and shot them, killing two and wounding the other.<sup>68</sup>

The following day, two members of a well-established, dissident Zionist militia group, *Irgun Bet*, drove to a farming shack east of Tel Aviv, knocked on the door and fired inside, killing one Arab and badly wounding another. The British police and Arabs assumed that the

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<sup>68</sup>Ian Black and Benny Morris, *Israel's Secret Wars* (New York: Grove Weidenfeld, 1991), pg. 2.

attack was retaliatory. "If the perpetrators had imagined that they would thus put an end to the bloodshed in Palestine, they were very soon to be disappointed."<sup>69</sup>

As that week progressed, unrest and instability became the norm. Funerals turned into angry demonstrations, the Jewish Sabbath became a free-for-all for Jewish thugs to assault Arabs, and rumors became tacit permission for causing more violence. By the standards of both earlier and later conflicts in the Middle East, this kind of violence and bloodshed was minor but it was a portent of things to come. Arabs were fearful of the expansionist nature of Zionist enterprise while Zionist land purchases continued in the wave of Jewish immigration that began after Hitler became Germany's chancellor.

On 19 April, four days after the ambush by the Palestinians, life in the Tel Aviv area returned to normal. Hundreds of Jews went to their offices and businesses in Jaffa. Then trouble started with a rumor: three Syrian laborers and a local Arab woman had been killed in Tel Aviv. It was not true but by nine o'clock that morning, large crowds of Arabs had gathered outside the government offices demanding the bodies of the "victims." Many Jews were stabbed or beaten up, although many were given shelter in Arab homes and still others managed to get back to Tel Aviv via water transportation. In the ensuing melee, the British managed to quell the disturbance but two Arabs and nine Jews were killed. A state of emergency was declared by the British authority.<sup>70</sup>

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<sup>69</sup>Phillip Knightly, *The Second Oldest Profession* (London: 1986), pg. 36.

<sup>70</sup>Black and Morris, pg. 3.

The *Haganah* militia operated a semi-clandestine arm which was a collection of volunteers conducting somewhat amateurish intelligence for the *Histadrut* labor federation. Obviously, they were not in the right place before the Jaffa riots or they neglected to see the signs. The Jews were shocked by the timing and strength of the Arab opposition. Unfortunately for those that died, the *Haganah* intelligence officers had seen no reason to report movements they had monitored around the main Jaffa mosque.

Immediately after the riots, Arabs began attacking Jews all over the country both in cities and isolated areas. Arab stevedores went on strike which crippled Jaffa's port. This went on for several months but the Jews did not retaliate physically, choosing instead the diplomatic and political route. They tried to convince the British to crack down on the perpetrators. They also attempted to persuade the Palestine government that they were dealing with criminals and not a politically inspired rebellion. All of this was to no avail because the strike and the violence in Jaffa continued.

By now, events had finally convinced the *Haganah* that security was now an overriding concern. The intelligence division recruited Jews who had extensive Arab contacts to gather information. They believed that human intelligence (HUMINT) was the best way to develop an intelligence base on the activities of Arabs co-existing with Jews so that they would not continue to be caught unaware by dissident Palestinians. The *Haganah* policy was now "know the enemy."<sup>71</sup>

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<sup>71</sup>Black and Morris, pg. 7.

The Jewish HUMINT sources were mostly merchants, farmers and land developers. Because they had many Arab contacts in their day-to-day endeavors, they also had the opportunity to converse about Arab activities and perspectives. They were also able to recruit reliable Arab sources. These Arabs were not necessarily interested in money for these services but revenge. Most of them had been persecuted by other Arabs because of ties of commerce and real estate sales to Jews and so they had strong personal reasons for wanting to neutralize or get rid of those persecutors. They expected the Jews to offer them refuge when they were attacked or even defense of their homes. The Jews took advantage of this dependence and were able to build reliable, complete dossiers on dissident Arabs.<sup>72</sup>

At the same time, the Political Department of the *Haganah* tried various means to foment dissension within the enemy camp through bribery and disinformation. By this time, eighty Jewish lives had been lost in the violence and it was clear that intelligence work was becoming increasingly important. Ezra Danin, one of the first and best intelligence operatives, wrote a memorandum to the head of the *Haganah* outlining how modern intelligence work should be organized. He argued that

“the attacks against us appeared to begin spontaneously and because we were unprepared we suffered many casualties at the start. Since the government is either also uninformed or does not want to crush the trouble we must find a solution by setting up our own *Haganah* intelligence service. The intelligence work must be carried out all the time, even when things are quiet, as happens in every country. Thus we will be able to predict and perhaps prevent future outbreaks.”<sup>73</sup>

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<sup>72</sup>Ibid., pg. 8.

<sup>73</sup>Black and Morris, pg. 9.

He believed that lists should be maintained on Arab clubs, organizations and political activists including their addresses, car license numbers, and the names of friends and relatives. Arab groups should be infiltrated and information should be exploited to create internal strife.

By 1938, the Arabs were engaging in a full-fledged revolt against the Zionists. The Jews were constantly haranguing the British to punish those rebels involved in the attack so that they would be deterred but to no avail. The Arabs were very successful, capturing areas and regularly attacking police stations. An eccentric British officer, Charles Wingate developed Special Night Squads (SNS) composed of a mixed force of British soldiers and *Haganah* volunteers to fight back and eventually, they were as successful as the Arab rebels. The SNS accomplishments encouraged the Haganah to be bolder, to use night ambushes and to go out and meet their Arab enemy on his own ground in a preemptive attack. Even after this British officer had been reassigned, the *Haganah* continued these activities and became quite efficient.

By 1939, the Arab rebellion was waning. Their leader, Abdel-Rahim al-Haj Muhammad, was killed by the British army in a Samarian village and rebel gangs had no stomach to fight anymore. They fled to Syria and the Palestinians left behind were deeply divided without leadership. Although this was a great military coup for the Zionists, diplomatically, it was disastrous. The British government decided against partitioning off Palestine and severely restricted Jewish immigration and land sales to Jews. British

authorities, intending to crack down, arrested *Haganah* members. They were particularly interested in the activities of Jewish fishermen who were involved in illegal immigration.<sup>74</sup>

The make-shift intelligence system of the *Haganah* had to be rearranged after these arrests. The national command set up a counter-espionage department which monitored Jews who collaborated with the British and the right-wing dissidents of the *Irgun*. Jewish communists were also under surveillance. By 1940, a joint country-wide intelligence service, *Sherut Yediot* or the *Shai*, was formed and all of the various intelligence departments of the *Haganah* were placed under their auspices. The *Shai* was the first formal intelligence organization formed by the Zionists.

By 1946, the Zionists were fully aware that a full-scale war with the Arabs was imminent. The Allies had liberated the Nazi death camps in Europe and were under intense moral pressure to grant the Jews a homeland of their own. Finally the British, impelled by the United States, stopped trying to halt Jewish immigration into the area and turned it over to the United Nations. The United Nations General Assembly appointed a Special Commission on Palestine which recommended that the British withdraw and that the country be partitioned into separate Jewish and Arab states. These recommendations were endorsed by the General Assembly and it was accepted by the Jews. Palestinian Arabs and neighboring Arab states, however, rejected the proposal outright.

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<sup>74</sup>Black and Morris, pg. 16.

Hostilities perpetrated by Arabs against Jews were sporadic at first and the Haganah did nothing because they believed this to be an initial wave of anger that would pass. When the violence continued and then escalated, the *Haganah* became aggressively defensive, occasionally launching massive retaliatory strikes on Arab villages harboring armed rebels. The Arabs brought in "volunteers" which included soldiers from the Iraqi, Syrian, and Jordanian armies. They reinforced the Palestinian irregulars and assisted in large-scale attacks against outlying Jewish settlements. The British were now concerned about withdrawing with as few casualties as possible so their interference was minimal.

The *Haganah* took advantage of the British lack of concern and went on the offensive, capturing the large Arab centers in Haifa, Tiberias, Jaffa and parts of Jerusalem. This triggered the largest exodus of the Palestinian Arabs and by the time the establishment of Israel was announced, approximately three-hundred thousand Arabs had fled Palestine. When the war ended, there were approximately seven-hundred thousand refugees in various Arab states.<sup>75</sup>

The *Shai* was ill-prepared for the war because its activities had involved political intelligence rather than military intelligence. David Ben-Gurion, Israel's first prime minister, believed that they lacked "direction and systematic thinking."<sup>76</sup> Although they had made considerable improvements since their inception and they exhibited increasing professionalism,

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<sup>75</sup>Black and Morris, pg. 38.

<sup>76</sup>Ezra Danin, the head of the *Shai*, sent a memorandum to his deputy, Reuven Zaslin on 3 October 1938 in which he repeated his conversation with Ben-Gurion.

the *Shai* remained a part-time, amateur intelligence service. They were totally unaware of the coming war with the Arabs, even though all events made this the inevitable conclusion. The *Shai*'s manpower and energies were still committed to keeping tabs on Jewish Communists and right-wing dissidents such as the *Irgun* and the *Stern Gang*.

The *Shai*'s failure to warn the *Haganah* of Syria's military deployments along the border and its mistaken anticipation of Arab rioting prompted Ben Gurion to set up a committee of inquiry. They concluded that the Arab informants were losing their value and better, more well-placed informants were needed in Lebanon, Egypt, Syria and Jordan. After the fact, when the Palestinians and the Israelis were well into the war, the *Shai* decided it was time to determine the nature and aims of enemy operations. They decided wiretapping would be the best method to gather intelligence and had an entire network set up. This method was imminently successful and more than made up for their past inadequacies. In fact, they upstaged military intelligence by accurately predicting the numbers, routes and objectives of the Arab Legion and the Iraqis. In general, however, all the intelligence organizations had failed to gather intelligence that was useful to the Zionist cause. The *Haganah* operations branch felt they had a "fundamental intelligence blindness" and could not plan effectively.<sup>77</sup>

Ben-Gurion was aware that the intelligence apparatus had to be reformed and there must be a clear separation between military and political intelligence. The *Shai* was dismantled and its functions evolved into several new bodies under the *Sherut HaModi'in* or

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<sup>77</sup>Black and Morris, pg. 54.

the Intelligence Defense Service. By 1949, it consisted of eleven departments and this structure was maintained for ten years. He also created what he called an "internal *Shai*", the General Security Service (*Sherut HaBitachon HaKali*) or *Shin Bet*. All of these came under the auspices of the Israeli Defense Force (IDF) Intelligence Service.

Until 1950, the *Shin Bet* (which is equivalent to the FBI in the United States) remained administratively within the framework of the IDF which provided cover, services, military ranks and pay. The head of the *Shin Bet* at that time, Isser Harel, felt that the new state of Israel needed a purely civilian security service because the military was providing minimal protection anyway. In early 1950, a compromise was reached and the *Shin Bet* came under the Defense Ministry and then later it became autonomous reporting directly to the prime minister.

The *Shin Bet* was responsible for routine physical security of classified information and of government and defense establishment premises from the beginning. Their most important work, however, involved counterespionage and domestic subversion, with particular attention devoted to Israel's Arab minority.

Arab Communists and their links outside the country were an early priority. The *Shin Bet* accurately perceived the internal Arab danger and lobbied heavily for continued Israeli military rule in Arab areas for security reasons. The cease-fire line with the Jordanian West Bank was long, ill-defined and ill protected and just beyond it lived hundreds of thousands of refugees. Whenever Arab spies were captured, they were portrayed in a sensationalist and demonic light. This was an attempt by the *Shin Bet* to make Israeli citizens aware of what

was in their midst and, therefore, to offer help in the form of HUMINT. Many Jewish immigrants from Arab countries were constantly followed and they reported that they had been offered money by Arabs to spy for hostile intelligence services, especially the Jordanians.

After Israel's stunning and totally unexpected victory in the Six-Day War which began on June 5, 1967, they realized that they were unprepared for its consequences. By June 10, with the West Bank, East Jerusalem and the Gaza Strip under full Israeli control, one of the first tasks they had to undertake was to work out how they were going to control a large and hostile Arab population. The *Shin Bet*, *Mossad* and *Aman* (military intelligence) were aware that there were going to be terrorists in their midst and one intelligence operative defined the main security goal : "To isolate the terrorist from the general population and deny him shelter and assistance even though the natural sympathy of that population is with the terrorists and not the Israeli administration."<sup>78</sup>

This new intelligence threat required the three Israeli intelligence organizations add new duties to their operations. *Aman* retained its overall responsibility for national intelligence and set collection and research priorities for the two other main components of the intelligence community. The *Shin Bet* was given control of operational intelligence in the occupied territories and the *Mossad* was ordered to increase its targeting and penetration of Palestinian organizations abroad.

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<sup>78</sup>Shlomo Gazit, *HaGezer VeHaMakel* (Tel Aviv, 1985), pg. 291.

The *Shin Bet* was not prepared for the task it faced. Although their reserve manpower, particularly their Arab speakers, had been mobilized, it was quite some time before those and the new recruits were trained enough for an operational deployment. "The service just wasn't ready to take over such a large area and such a large number of people. Our only previous experience was in the Gaza Strip in 1956, and we assumed that the same would happen, that it would all be over and we'd be leaving in a few months," a senior *Shin Bet* officer revealed.<sup>79</sup>

The *Shin Bet* had developed into a highly professional security and counterespionage organization whose two main tasks had been the control of the Arab minority and countering the threat of hostile foreign intelligence operations on Israeli soil. The closure of all Soviet Bloc embassies after the rupture of diplomatic relations in 1967 had freed some of the service's counterintelligence personnel for other duties.

For the first few weeks after the end of hostilities, the Palestinians were still existing in a state of shock. By July, however, the *Shin Bet* had received indications that shock had finally given way to anger and there were signs of readiness to begin a campaign of civil disobedience organized by the Palestinian Liberation Organization (PLO) against the occupation authorities. One factor contributing to their anger was the large number of Israelis who started to go out and see the sights their new territory had to offer and hunt for bargains in the souks of East Jerusalem and Hebron.

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<sup>79</sup>Black and Morris, pg. 238 in an interview with this individual.

*Fatah*, a Palestinian militant splinter group which had operated in Jordan and had not participated in the war, began to stir up rebellion. Their military wing announced:

“Our organization has decided to continue struggling against the Zionist conqueror. We are planning to operate far from the Arab states so they will not suffer Israeli reprisals for *fedayeen* actions. It will therefore be impossible to hold the Arab people responsible for our war. Our organization is the organization of the Palestinian people and we are united in our resolve to free our stolen homeland from the hands of the Zionists.”<sup>80</sup>

These words projected more confidence and preparation than the Palestinians possessed to conduct the guerrilla operations they envisioned. Approximately five-hundred volunteers went through three-week military and ideological training courses at *Fatah* camps in Syria, after being screened by a “security committee” to ensure they were not Israeli agents. These crash courses were not enough, however, and the *Fatah* security screen was also totally useless.

When the first *fedayeen* entered the West Bank and Gaza Strip, they were often careless about concealing their tracks and identities. Having operated in Jordan and Egypt and dealing with the ruthless efficiency of their security services had made it difficult for the Palestinian national movement to build up an infrastructure before the war. Early operations were amateurish and the organizational cells were too large. Yasir Arafat, chairman of the PLO, and his deputies attributed these setbacks to: “the efficiency of the Israeli secret services and the carelessness of our fighters.”<sup>81</sup>

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<sup>80</sup>Ze’er Schiff and Raphael Rothstein, *Fedayeen* (New York, 1972), pg. 63.

<sup>81</sup>Abu Iyad and Eric Rouleau, *My Home, My Land* (London, 1978), pg. 56.

Arafat himself arrived in the West Bank at that time and set up headquarters. He was impatient and pressed for immediate action when it would have been more prudent to establish bases and garner gradual support. As it was, he did little more than test the waters by conferring with supporters and raise morale. He eventually was forced to flee the area disguised as a woman after the *Shin Bet* had discovered his safe house.

These victorious beginnings made the *Shin Bet* a powerful security force with whom the PLO had to deal. They had the advantage of putting their counterterrorist plans into action while *Fatah* was in the first stage of organization before the onset of sabotage operations. Although the *Shin Bet's* successes were not well-known to Israelis due to military censors, the Palestinians were well aware of their exploits and lived in fear. The other Israeli intelligence services began to respect the *Shin Bet's* professionalism and close cooperation resulted, making *Fatah's* exploits less successful. One security officer said of *Shin Bet*, "The big change was that we were no longer just collecting intelligence. We went operational in our own right."<sup>82</sup>

From the outset, the *Shin Bet* proved that it was adept at dealing with classic domestic terrorism. For example, a well-known *Fatah* cell operating in Jerusalem area was arrested quickly after an explosion at the Fast Hotel in September 1967 and an abortive bomb attempt at the crowded Zion Square cinema in October 1967. No one was injured, but the cinema attack set a dangerous and worrying precedent; this was the first time Palestinians had tried

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<sup>82</sup>Black and Morris, pg. 243.

to attack a purely civilian target. The head of this cell had recruited about thirty people, most of whom had been trained in Syria. Many were also members of Jerusalem's African community, descendants of Muslim pilgrims.

Two young African women were arrested immediately after the cinema bomb attempt and in no time, the *Shin Bet* had a lead. The two women were amateurs. Under light interrogation, they gave everything away, providing the *Shin Bet* with the names of their comrades, their whereabouts, precise information about their training in Syria, their infiltration routes and the organization of other cells in the West Bank. Within forty-eight hours the entire cell had been rounded up and the Shin Bet had uncovered arms, explosives and vehicles.<sup>83</sup>

By the end of the first year of occupation the West Bank was relatively quiet, but there was always work to be done. The *Shin Bet* estimated that there were still between one-hundred and two-hundred Palestinian activists hiding in the collection of houses built around the narrow alleyways of the old Casbah in the Palestinian dominated town of Nablus. They feared that if the core of the *fedayeen* was not broken up, they would be able to train and organize uninterrupted, improving their guerrilla tactics. The Israeli government, specifically, Moshe Dayan, the defense minister, was reluctant to roust a community and disturb their peace unless the *Shin Bet* could guarantee that they were sure of their suspects. When a Palestinian was assassinated for collaborating with the Israelis, Dayan gave the go-ahead. The

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<sup>83</sup>Meron Benveniste, *Jerusalem, the Torn City* (Jerusalem, 1976), pg. 218.

*Shin Bet* rounded up thousands of Palestinian men living in the Casbah and paraded them in front of masked informants. When all was said and done, the *Shin Bet* found two arms caches and arrested seventy-four people who were identified as guerrillas.<sup>84</sup>

Although initially, *Fatah* had announced they would not be operating in Arab states, that philosophy changed as the *Shin Bet* became more adept at sniffing them out and escape was imperative. Often, those terrorists that fled the *Shin Bet* raids would cross the river back into Jordan, which forced the Israelis to conduct reprisal raids on Jordanian army positions. This naturally increased the strain between King Hussein of Jordan and the Palestinians.

The *Shin Bet* also used infiltration effectively. "A special effort was made to plant informers in terrorist bases in Jordan and to infiltrate them into networks operating inside Israeli-administered territories," one security expert wrote later.<sup>85</sup> The Palestinians believed that penetration was extensive and they worried about it constantly but did not have the power or the expertise to stop it or put it to use. They tried to claim that they had many double agents operating for them but Israeli sources insisted that these claims were false or at least vastly exaggerated. The *Shin Bet* insisted there were no known PLO penetrations of their operations.

Exploitation of Palestinian suspicions was also a successful technique used by the *Shin Bet*. They would "casually" mention a "collaborator" in front of a prisoner during an

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<sup>84</sup>Shabtai Teveth, *The Cursed Blessing* (London, 1970), pg. 235.

<sup>85</sup>Benvenisti, pg. 224.

interrogation and then release or deport him. In many cases, the freed Palestinian would denounce his colleagues as traitors, fueling the already intense fear of Israeli penetration and creating internal purges via "remote control."<sup>86</sup>

PLO factions were incredibly naive during the early days of their terrorist operations. During the training process, they obviously did not instill loyalty in their volunteers, which made the *Shin Bet*'s job that much easier. One captured terrorist could do immense damage to a cell. The Shin Bet would take a captive, dress him up in an IDF uniform and dark glasses and take a tour of the West Bank. As they traversed the area from north to south, the terrorist would point out people with whom he had trained. Massive arrests would follow which, in turn, would increase Palestinian suspicions of Israeli penetration.

An unwitting ally of the *Shin Bet* was Jordan. The PLO claimed that Israeli penetration was responsible for the confrontations between the Palestinians and the Jordanian army but it was their own arrogance that infuriated King Hussein. He was unable to accept the creation of an independent Palestinian state within his own kingdom. When the Popular Front for the Liberation of Palestine (PFLP) hijacked three international airliners and set them down in a desert airfield in Jordan, the *Shin Bet* informed them that their relatives (measuring in the hundreds) were being held hostage pending the outcome of this terrorist act. The passengers were released unharmed and the aircraft were blown up.<sup>87</sup>

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<sup>86</sup>Steven Eytan, *The Eye of Tel Aviv* (Paris: 1972), pg. 72.

<sup>87</sup>This account of the hijacking appeared in *HaAretz*, an Israeli newspaper, on 11 July 1985.

King Hussein responded to these actions by turning his army on the Palestinians, thousands of whom were annihilated. This became known among the Palestinians as Black September. Scores of *fedayeen* fled from the East Bank after another confrontation with the Jordanian army and seventy-two surrendered to the Israelis rather than face a bloody confrontation. Those who were extremely grateful to still be alive were used by the Israelis to contact and identify other groups, who were then rounded up by the *Shin Bet*.

In the Gaza Strip, which was much more densely populated with Palestinians, the *Shin Bet* had a much more difficult time isolating PLO and PFLP terrorists. In this area, the terrorists were more firmly entrenched and the appalling physical conditions under which the refugees had to live made them more sympathetic to the rebel cause. Eventually, the *Shin Bet* had to work closely with the Israeli army. An elite commando unit was ordered to comb the area until every terrorist was found. In the refugee camps, adult males were randomly stopped and searched; curfews were imposed on the camps; and the army was supplied regularly with a list of wanted terrorists. Before the army assisted the *Shin Bet*, there were thirty-four terrorist incidents recorded by July, 1971. By December of that same year, only one terrorist incident had occurred. The *Shin Bet*-Army cooperation was highly effective.

The massacre of eleven Israeli athletes in Munich was a blot on the *Shin Bet* record and a severe blow to the image they had built up with their successes in Israel. The security of the athletes was their responsibility while any intelligence information on Palestinian terrorist activities was the responsibility of the *Mossad*. According to the *Mossad* chief, his organization had received intelligence about a PLO unit flying in from the Middle East to

somewhere in Europe and had passed it to the *Shin Bet*. The *Shin Bet* argued that the report was vague almost to the point of uselessness. An inquiry into the security lapse led to the dismissal of three senior *Shin Bet* executives. Golda Meir, the prime minister, felt that this would help to restore confidence in the security service.<sup>88</sup>

The relative success of the *Shin Bet* after the Six-Day War prevented the Palestinians from launching a people's war at the very moment their ideology required it. The occupied territories never became Algeria or Vietnam as envisioned by the PLO. The Israelis were able to construct a security system based on the "carrot and stick" method which turned out to be a fruitful gambit. Although the *Shin Bet* was successful, this forced the Palestinian terrorists to operate abroad, which was much more difficult for the *Mossad* to handle without the backing of the Israeli army.

#### **B. ISRAELI COUNTERTERRORISM (1980 - 1989)**

Although the *Shin Bet* was acknowledged, internationally, as the premier domestic security service, it was certainly not without its share of scandal and corruption. They had developed their craft over a period of more than a decade and had become very adept at flushing out terrorists and preventing most terrorist activities within Israel and the occupied territories. It might be said that the scandals erupted at this time because the intelligences services of Israel were attempting to stay on top of their game in a changing world.

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<sup>88</sup>Black and Morris, pg. 271.

Palestinian terrorists were beginning to catch up with Israeli intelligence methods and it was becoming more difficult for those agencies to stay on top of the Palestinians.

The first *Shin Bet* scandal began on April 12, 1984. Four teenage Palestinians from the Gaza Strip boarded the number 300 bus in Tel Aviv, en route to the southern town of Ashkelon. About halfway through the journey, one of the thirty-five passengers, who had somehow become suspicious of the four Arabs and their intentions and had tried in vain to warn the driver of his fears, jumped off the bus shouting: "Terrorists, terrorists!"<sup>89</sup> One of the Palestinians threatened the bus driver with a knife and a hand grenade. A second hijacker brandished some kind of spray can. The third took up a position in the center of the bus, holding a briefcase from which wires were protruding and the fourth said he had a grenade. They informed the passengers that they had no quarrel with them and allowed a pregnant woman passenger to disembark. She alerted the police and roadblocks were set up but the bus continued. A few miles south of Gaza City, soldiers shot out the rear tires of the bus which brought it to a standstill. The driver escaped and was beaten by soldiers who mistook him for one of the hijackers.

By the time the defense minister was informed, an elite army unit was in position around the bus awaiting orders. The head of the *Shin Bet*, Avraham Shalom, his deputy and five other *Shin Bet* field operatives and executives were also present. Negotiations began with the first hijacker who was still standing by the driver's seat. He demanded to see the

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<sup>89</sup>This account was taken from the newspaper *Ma'ariv* on 18 July 1986.

Egyptian ambassador and the immediate release of five-hundred Palestinian prisoners. Several journalists and photographers had appeared by then to record the event.

At dawn the next day, soldiers stormed the bus. The first and second hijacker were killed and most of the passengers had thrown themselves to the floor. The other two hijackers were overpowered and badly beaten to stun them. When they were brought off the bus, they were questioned by Brigadier General Yitzhak Mordechai, commander of the elite unit. By his own admission, he pistol whipped them to get answers to his various questions. Although the hijackers were dazed, they were very much alive when handed over to the *Shin Bet*. As they were lead away to a nearby wheat field, photographers recorded the event on film.

Israel Radio reported that two terrorists had been killed in the assault and two others captured. Later that day, however, in response to repeated questioning by journalists, an IDF spokesman said that two terrorists had been killed in the storming of the bus and that the two others had died on their way to the hospital in Ashkelon. Doubts began to emerge about the truth of the official statements. The Jerusalem correspondent for the *New York Times* ignored the military censor restrictions and reported suspicions that the two living hijackers had been killed after their capture. Other media and the IDF were also very confused; the defense ministry ordered an inquiry into the affair.

Against better judgement, the defense ministry allowed the *Shin Bet* to appoint their own man to represent the security service on the board of inquiry. The *Shin Bet* insisted that this was to prevent friction between them and the army. Later on, however, it was apparent

that the *Shin Bet* member on the board of inquiry was passing details of the investigation back to Avraham Shalom, the director of *Shin Bet*. With this information, the *Shin Bet* was able to work out a cover-up.

After the autopsy was completed, the board published its report. They found that both terrorists had died of fractured skulls and that unspecified members of the "security forces" had committed crimes. The *Shin Bet* witnesses described to the investigators how they saw General Mordechai standing in front of a kneeling terrorist and kicking him in the head. Others said that he had used his pistol like "a hammer." Essentially, the *Shin Bet* had agreed to set up Mordechai as the prime suspect. The witnesses were briefed by GSS legal advisers before appearing in front of the inquiry and were ordered to report back to headquarters afterwards to describe what had happened. It was a very professional cover-up.

Mordechai realized he was being framed and, because of his popularity, was able to find witnesses who contradicted those of the *Shin Bet*. Nine soldiers described how *Shin Bet* agents had sealed off the wheat field while dealing with the hijackers. They reported what happened as an "organized lynch." Unfortunately, this did not help because, although there was insufficient evidence to charge Mordechai with the killings, it was recommended that he, five *Shin Bet* men and three policemen be tried for assault. A special disciplinary court acquitted all.

The deputy of the *Shin Bet* demanded the resignation of Shalom. He approached Shimon Peres, who was the prime minister, and offered to tender his resignation if that is what it took to obtain Shalom's removal. Peres refused and the deputy took the demand

outside the service to the attorney-general, Yitzhak Zamir. The attorney-general and his aides cross-examined the deputy for days and was finally convinced of the truth.

Israel Television reported on May 1986 that Professor Zamir intended to prosecute a "very senior official in a very sensitive state service." That person was named the next day as Avraham Shalom and it became public knowledge in Israel that the head of *Shin Bet* was accused of withholding information about the killings, putting pressure on witnesses and tampering with evidence.<sup>90</sup>

Shalom knew ultimately that he had to go and he resigned on June 26 after it was announced that he and three other officials had been granted pardons by President Chaim Herzog. Later, when a new attorney-general was installed, the police forwarded their findings of the case, including the statements of thirty-nine witnesses. This report made it clear beyond a doubt that the two hijackers were killed on Shalom's orders. Shalom claimed he gave orders based on a conversation with Shamir in November 1983, in which the treatment of captured terrorists was discussed. Shamir informed the police that he remembered the meeting but "looking back, I must say that could not be understood as permission to take prisoners, question them and then kill them." The Justice Ministry team concluded that Shamir had not known of the order to kill the terrorists or of the subsequent cover-up.

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<sup>90</sup>Black and Morris, pg. 407.

Because Shalom and the other players had already been pardoned, the attorney general decided that the case was closed.<sup>91</sup>

Other scandals followed but the *Shin Bet* was able to weather them. By the end of the decade, their high-profile approach and considerable successes in dealing with the *intifada* endeared them once again to the Israelis. As the Palestinians in the West Bank and Gaza Strip tired of their long struggle and the human and economic sacrifices it required, the character of the unrest changed. The mass stone-throwing demonstrations gave way to hit-and-run attacks by small groups of activists. This kind of activity was on what the *Shin Beth* had cut its teeth. The Palestinian activists were organized in classic cell-like structures with which the *Shin Bet* was thoroughly familiar.<sup>92</sup>

Operating closely with the army, *Shin Bet* agents track down and killed or captured the members of two small *Fatah*-affiliated armed groups. They had also arrested hundreds of members of the military wing of the *Hammass* movement in the Gaza Strip. Some Palestinians argued that this was no great coup because *Hammass* members were not used to operating clandestinely and therefore were an easy target.

### C. ISRAELI COUNTERTERRORISM (1990s)

Early in this decade, the *Shin Bet* showed that it was able to hold its own with it long-tried *modus operandi*. It also helped that the *intifada* was having bad luck, suffering blow

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<sup>91</sup>Black and Morris, pg. 409.

<sup>92</sup>Ibid., pg. 494.

after blow to its cause. In May, 1990, after an abortive seaborne attack on the Israeli coast by the Palestine Liberation Front, the United States halted its dialogue with the PLO, robbing the organization of its greatest political achievement. This coincided with the collapse of the Labor-Likud national unity coalition and its replacement with a new right-wing Likud government. This was yet another blow to the legitimacy of the Palestinian's cause as Likud was well-known for their stand against Palestinian autonomy. When Iraq invade Kuwait in August, Palestinians enthusiastically supported Saddam Hussein. Being on the side of the defeated caused them political and economic damage, hurt their dialogue with the Israeli left (their only hope in Israel), and halted vital financial support from Arab countries who had stood against Iraq's invasion.<sup>93</sup>

All this made life easier for the *Shin Bet*. They were spurred by the conviction that internal security had to be maintained so that Israel could negotiate from a strong position on the future of the West Bank and Gaza Strip

#### **D. THE ASSASSINATION OF YITZHAK RABIN**

Although the *Shin Bet* began its counterterrorism operation with Jewish right wing groups, the rise of the Palestinian terrorists took precedence. Right wing groups were watched but largely ignored. Violent, hate-filled Jewish groups have been part of the political landscape since the Six-Day War. Their platform is based on the fact that the Sinai, West

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<sup>93</sup>Black and Morris, pg. 496.

Bank, Gaza Strip and Golan Heights must be retained as part of Israel's biblical birthright by violence if necessary. Any Jew who opposes them is a traitor to cause.<sup>94</sup>

Although many right wing groups have existed since the founding of the Israeli state (*Irgun, Stern Gang*), the most violent has been *Kach* (Thus), founded by American-born Meir Kahane (who also founded the Jewish Defense League). Kahane's rhetoric was so flammable, in 1983 a lone right-winger threw a grenade into a crowd of Peace Now ralliers, killing one Israeli man. He based this action on encouragement from Kahane's speeches. It was the first time in a long time that a Jew had used violence against fellow Jews for political reasons.

Although *Kach* has diminished in influence, it still creates trouble. The group often makes telephone threats against journalists and politicians and takes responsibility for any violent act against Arabs. Only after *Kach* devotee Baruch Goldstein sprayed a Hebron mosque with automatic-rifle fire in 1994, killing twenty-nine worshipers, did the *Shin Bet* begin to concentrate more fully on violent right-wing groups.

On November 4, 1995, Yitzhak Rabin, the prime minister of Israel, was assassinated by Yigal Amir, a law student, during a peace rally. Amir and his conspirators have been linked to *Eyal*, a *Kach* offshoot. This group is based at Tel Aviv's Bar Ilan University and although its activities have usually tended toward threats and harassment rather than outright

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<sup>94</sup>Michael D. Lemonick, *Roots of Israeli Extremism*, Time, November 13, 1995, volume 146, no. 20, pg. 1.

violence, they tend to believe that any act, including murder, is justified if it thwarts the peace process.<sup>95</sup>

Immediately after the assassination, the *Shin Bet* began a thorough investigation into events that were connected to the operation in all its stages. After the data were gathered, the Director decided to establish an internal investigation committee which would expand the investigation and the inquiry into the circumstances. The members of this committee were three former *Shin Bet* division heads who had retired at least ten years ago: Uzi Berger, former head of the *Shin Bet* Operations Division; Savinoam Avivi, previously head of the *Shin Bet* Protection Division; and Rafi Malka, who served as heads of *Shin Bet* Operations division, Administration Division and Protection Division in Europe.<sup>96</sup>

The Internal Committee was asked in its letter of appointment to examine the following issues and the responsibility of the chain of command for these issues:

1. The preparations for the operation
2. The intelligence for the event
3. The coordination of the intelligence with security inputs
4. Coordination with the various elements that took part in the responsibility for providing security for the event: police, police anti-terror unit, hospital and others
5. Performance of the unit during the event while emphasizing its performance during the assassination itself and during the evacuation of the Prime Minister.<sup>97</sup>

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<sup>95</sup>Lemonick, pg. 2.

<sup>96</sup>*Report of Internal GSS Committee on Rabin Assassination*, 8 November 1995.

<sup>97</sup>*Report of Internal GSS Committee on Rabin Assassination*, 8 November 1995.

The committee was given full access to all the material that it requested and allowed to interview those persons it thought relevant to the event. They worked continuously from November 5 to November 8 and submitted these conclusions to the Director of the *Shin Bet*:

1. Planning failure: the committee points to a failure in planning in that a critical segment of the security operation for the event—and the professionalism appropriate for its security—was not taken into account.
2. Operational failure: the planning failure led to an operational failure in the security of this same critical segment. During the event, the planning failure was discerned and a number of directives were given to correct the deficiencies that remained in the critical segment. The directives were partial, and were issued late. Their implementation as well was not complete.
3. As a result of the planning and security deficiencies and mainly due to the failure to correct the holes, the murderer succeeded in approaching the Prime Minister to within a lethal distance.
4. The committee found that the bodyguard, who jumped on the murderer and did not fire at him, had exercised correct judgement, given the circumstances, a comparative run-through of firing a bullet, and field conditions. The committee commended the performance of the bodyguard, who was wounded during the event.
5. The committee was not asked to examine—and therefore did not relate to—the performance of the police and did not deal with issues related to the prevention of incitement, et cetera as being relevant to the event.
6. The committee pointed to the direct responsibility of three persons: the head of the Government Unit for VIP Protection, the head of the Operations Branch and the commander for the event. The committee recommended that the Director of the Shin Bet draw the necessary conclusions regarding those who were responsible for the failure and its occurrence.
7. The committee found that the head of the Protection Division bears the responsibility for the system's poor functioning. The protection plan was presented to him, during his visit at the event and during the event itself, he pinpointed a number

of deficiencies and ordered that they be corrected. The deficiencies were corrected late and incompletely.<sup>98</sup>

The Director of the *Shin Bet* decided to recommend to Acting Prime Minister Shimon Peres that the head of the Protection Division, the head of the Government VIP Protection Unit, the head of the unit's Operations Branch and the commander for the event be suspended until all the examinations related to the tragic incident are completed, including a state commission of inquiry should it be decided to establish one.

Acting Prime Minister Peres approved the Director's decisions. Later, the Director met with those heads of the divisions mention previously and told them of the committee's report and its conclusions and about his decision to suspend them immediately until all the investigations are completed. The head of the Protection Division then asked to resign from the *Shin Bet* and his resignation was accepted. Other *Shin Bet* officials were appointed to fill in for those who were suspended or resigned and appropriate measures were taken to ensure the *Shin Bet*'s operational capability while implementing the lessons learned.

The Director of the *Shin Bet* then convened the entire organization and presented to them the committee's conclusions and the decisions he had made in their wake. He discussed the future of the *Shin Bet* and noted the immediate successful deployment of the largest protection operation ever in Israel which had occurred over the previous forty-eight hours. The Director emphasized the *Shin Bet*'s obligation to continue to defend the State of Israel

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<sup>98</sup>*Report of Internal GSS Committee on Rabin Assassination*, 8 November 1995.

and its leaders and ministers against Arab and Jewish terrorism which continues to threaten Israel.

On November 21, 1995, it was announced that Amir had once worked as a security guard abroad and had been trained by the *Shin Bet*. An accomplice, Avaishi Raviv, was an informer (and an alleged *agent provocateur*) who was secretly reporting to the *Shin Bet* while reportedly handing out fliers of Rabin dressed as a Nazi SS officer. Yossi Melman, an intelligence expert stated, "there was a colossal failure of the General Security Service which led to Rabin's assassination. They had many tips and leads about Amir's intention to murder the prime minister and they ignored them." This information has shifted the focus of blame away from right wing extremists to the failures of the *Shin Bet*.<sup>99</sup>

Although recent events have thrown the Shin Bet into an unfavorable light, history has shown that they have been supremely effective in fighting domestic terrorism. In the future, they will have more on which to concentrate and it will be necessary to distrust Jews and Arabs. In today's world climate, anyone can be a terrorist in Israel and the *Shin Bet* is up to the challenge.

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<sup>99</sup>This information was taken from a report filed by CNN Jerusalem Bureau Chief Walter Rodgers on November 21, 1995. The entire report can be found on CNN's web page on Internet at [www.cnn.com](http://www.cnn.com).



#### **IV. BRITISH COUNTERTERRORISM AND NORTHERN IRELAND**

The previous chapters on the FBI and the Shin Bet have discussed those organizations' methods, successes and scandals in their continuing fight against domestic terrorism. In Great Britain, however, domestic terrorism has been fought on all fronts by different organizations. When the "Great Trouble" began in 1969, Northern Ireland tried to control the violence perpetrated by the Irish Republican Army (IRA) with the Royal Ulster Constabulary (RUC), a country police force. Unfortunately for them, they were undermanned and unprepared to engage the IRA. The leader of Northern Ireland petitioned the British Parliament for assistance and it came in the form of the British army.

In this chapter, I will examine the various means that have been employed by both the British and Northern Ireland Loyalists in combating IRA terrorist acts. This will include a look at England's role through the use of MI5, MI6, the Army and the Special Air Services; the effectiveness of the Royal Ulster Constabulary and other law enforcement groups within Ireland; the use of supergrasses; and the use of extralegal means to convict and incarcerate suspected terrorists. Like Israel, the British have approached the IRA's terrorism campaign with thoroughness and precision.

##### **A. BRITISH CONTRIBUTIONS TO COUNTERTERRORISM IN NORTHERN IRELAND**

The Special Air Services (SAS) was first called to service in Northern Ireland when the breakdown in law and order occurred in August, 1969. For a year, the violence between

civil rights demonstrators and the RUC (backed by the "B" Specials, a reserve volunteer patrol group) had convinced the Protestants that civil war was imminent. The Catholic community as well as the government in Dublin thought that a pogrom was about to occur. The British government and the Protestant government could not agree to what extent military support should reinforce law enforcement organizations. Finally, the British agreed to send support only if there was a complete breakdown of law and order and only after the Protestants' law enforcement organizations failed to control the situation. Unfortunately, this is what happened.<sup>100</sup>

In 1920, the British government was planning to partition Ireland into the six counties of the North with its own Parliament in Belfast and another Parliament in Dublin to represent the twenty-six counties in the Irish Free State. During this planning stage, when elections to the new parliaments were being organized, the British government was persuaded to provide protection for unionists in the North from the IRA. IRA attacks became so numerous that the British authorized the Under-Secretary in Belfast to form the Special Constabulary (or "Specials") in October 1920.

The Specials were divided into three classes: Class "A" Specials were full time reserve police who were armed, equipped, uniformed and paid the same wages as regular police. The "B" Specials were unpaid, except for a clothing allowance, and expected to carry out duties in their own areas on one or two nights per week. "C" Specials were simply men listed as

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<sup>100</sup>Patrick Geraghty, *Inside the SAS* (London: 1989), pg. 159.

available for emergency services, and they provided their own weapons. The "A" Specials eventually merged with the RUC and the "C" Specials were abolished, leaving only the "Bs".

From the date of their establishment to the mid-1960s, the "B" Specials were very successful in countering IRA terrorist activities. While the RUC had a maximum strength of about thirty-five hundred, the "B" Specials could call up about twelve-thousand volunteers to patrol which prevented the IRA from moving about freely. Pat Coogan, an IRA historian, noted that the Specials "were the rock on which any mass movement by the IRA in the North has inevitably foundered."<sup>101</sup>

In the increasing street rioting and violence of 1969, the Specials were not given special training in riot control or modern equipment such as riot shields. Also the Loyalists were lobbying for support from the Labor government in London so the Specials were eventually phased out. From July 1969, the Specials were only used in a very limited way at the discretion of the RUC County Inspectors. They were reinstated fully on August 14 when the RUC almost lost control of a riot and the government ordered the mobilization of the Specials. The number of mobilized men intimidated the smaller violent mobs.

On August 15, Northern Ireland's government asked the Labor government in London for assistance from the British army. By the 16th, the army had taken control of all riot areas without the assistance of the RUC and the Specials. Northern Ireland's Prime Minister Chichester-Clarke and Harold Wilson, England's Prime Minister met on August 19th

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<sup>101</sup>J.R. Whitten, *The Ulster Special Constabulary* (Internet, 1995), pg. 2.

to discuss the future security of Ireland. Although the record of the meeting remains secret, Wilson has stated in a television interview that a decision was made to dismiss the Specials.

The disbanding of the "B" Specials greatly reduced the amount of street intelligence flowing to the government, which, in turn, was not helpful to the British soldiers. The intelligence that was available to the army was limited and tended to be inaccurate. By 1971, the hard-line Provisional IRA (PIRA) emerged with a bombing campaign. Averaging two explosions a day, the authorities became desperate to penetrate the terrorist network. The Army adopted the "counter-gang" tactics which had been developed during Kenya's Mau Mau period. These tactics, based on three separate factors, were designed to make a shift allegiance from one group to another and become an efficient, unrecognizable intelligence gatherer. The first factor (the carrot) introduces an incentive strong enough to make the man want to shift his loyalty. Then he must be made to understand that failure will result in unpleasant consequences (the stick). Thirdly, he must be given a reasonable opportunity to prove to himself and his friends that there is nothing dishonorable about his action.<sup>102</sup>

IRA activists who were arrested were given the choice of imprisonment or undercover work for the British Army. They usually opted for the latter and were formed into the Special Detachment of the Military Reconnaissance Force (MRF). The task of these MRFs was to drive around Belfast's Republican districts to identify their comrades in the IRA who were then placed under surveillance or arrest. Unfortunately, not many of the MRF members lived

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<sup>102</sup>Geraghty, pg. 163.

to enjoy the promised freedom. Some attempted to become double agents while others made the mistake of returning to their homes. They were eventually discovered by the IRA and shot or tortured during interrogations.

This type of intelligence work did not satisfy the Protestant Government. In August 1971, against military advice, the Northern Ireland prime minister persuaded London to introduce internment without trial. This move alienated many uncommitted Catholics and exposed the lack of information that had been collected by the security forces' intelligence system. Many of those people rounded up had had nothing to do with the IRA for years, while the real culprits remained on the loose.

The result was a serious escalation of violence. While only fifty-nine people had been killed in two years from August 1969 to August 1971, an additional two-hundred thirty-one were killed in the following six months. The British government told the Northern Ireland prime minister that they were no longer willing to have their army directed by his government and the responsibility for that part of security was transferred to London.

At about this time, the SAS were posted as individuals to Military Intelligence in Ulster. The Intelligence Director was a senior officer of the Secret Intelligence Service (MI6) which is traditionally concerned with intelligence collection outside the United Kingdom. This caused intense resentment in MI5, which was responsible for Ulster as well as domestic counterterrorism.<sup>103</sup>

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<sup>103</sup>It was speculated that MI6 was put in charge because they wanted to monitor a growing Soviet and Arab interest in the Irish conflict. It was probably more practical to

The MI6 Intelligence Director had a direct line to the prime minister in London. There was also an intelligence officer from MI5 working in Northern Ireland as well who had a direct line to the Prime Minister. A third source of intelligence was the Army, who had developed fruitful relationships between their undercover agents and their informers. Since both were at risk of discovery, these sources of information had to be kept close-hold. This resulted in turmoil for those in the field because they did not know to whom they had to report. Some intelligence officers believed the IRA's assassination of ten informers was due to a leak which had been overlooked in the confusion.

In 1974, in an effort to impose order on this chaos, more SAS officers were sent in to control agents in the field. There was political opposition from both the Northern Ireland and London government because both were involved in secret negotiations with the IRA. The discovery of a "doomsday" plan in a raid on IRA headquarters, however, proved that the IRA was not serious about peace but playing for time.<sup>104</sup>

The conflict in Ireland created some problems because, politically, London and Northern Ireland refused to see this as a war while the soldiers and SAS operatives could not

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presume that Prime Minister Wilson trusted MI6 more than he trusted MI5. There was also a traditional link between MI6 and the SAS, who were operating in Northern Ireland on a regular basis at this time.

<sup>104</sup>The "doomsday" plan was a collection of documents which revealed specific and calculated plans by IRA to foment chaos and sectarian hatred through indiscriminate violence in an effort to occupy and control certain areas in Belfast and its suburbs. This plan included a "scorched earth" policy of burning the houses of innocent bystanders in the event they were compelled to withdraw.

see it as anything else. A soldier reacting to what he thought was a wartime situation would suddenly find himself arrested and facing civil charges, which tended to be very demoralizing. At this point, both governments were at a loss as to how to bring this situation to a conclusion. Since direct confrontation was not as successful as they wanted, they decided to go with political solutions.

## **B. THE PREVENTION OF TERRORISM ACT**

The Prevention of Terrorism Act was legislated in 1974 in response to the campaign of violence the IRA sustained in Britain beginning in 1972. This intense violence was sustained for a two-year period and by that time, the citizens were truly frightened. The House Secretary, Mr. Roy Jenkins introduced the Prevention of Terrorism (Temporary Provisions) Bill to Parliament which was passed in forty-two hours without amendment. The Act expired in May 1975 but an extension was successfully put into effect. In 1976, a new Act was passed, adding a few more crimes and again, it had to be renewed. By this time, the renewal process became a formality. In 1984, another review by Earl Jellicoe resulted in the Prevention of Terrorism (Temporary Provisions) Act 1984. With this measure, international terrorism was added. In 1989, the Act was greatly expanded and no longer limited to five years.<sup>105</sup>

The most important powers in the prevention of terrorism legislation in Great Britain relate to proscription, exclusion, and detention. There are three groups of crimes relevant to

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<sup>105</sup>K.D. Ewing and C.A. Gearty, *Freedom Under Thatcher: Civil Liberties in Modern Britain* (Oxford: Clarendon Press, 1990), pg. 213.

proscription. Belonging to the IRA or the Irish National Liberation Army is an offense in Britain, punishable by up to ten years in prison. Soliciting or inviting support for the IRA or INLA is also prohibited. Secondly, it is a crime to arrange, manage, or address any meeting of three or more persons if it is known that the meeting is to support or further the activities of these groups. Thirdly, any person who in a public place either wears any item of dress or wears, carries or displays an article "in such a way or in such circumstances as to arouse reasonable apprehension that he is a member or supporter of a proscribed organization" may incur a severe penalty of a fine or up to six months in prison.<sup>106</sup>

The exclusion powers of the Terrorism Act are the most widely disliked and controversial part of this legislation. If the Secretary of State is satisfied that any person has been involved in any part of acts of terrorism connected with Northern Ireland or is attempting to enter Great Britain with the intention of committing acts of terrorism, he or she may make an exclusion order against the suspected perpetrator. A British citizen who has resided in England for at least three years is exempt so, in practice, this law is aimed at the Irish in Britain. Exclusions are usually based on intelligence, forensic evidence and/or previous convictions. If a person is detained based on suspicion and remains silent during interrogation, this fact may be used against them on the ground that it shows training in "anti-interrogation" techniques and they may be excluded. This is, of course, in violation of the

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<sup>106</sup>Ewing and Gearty, pg. 216.

privilege against self-incrimination, which was anticipated with the formal destruction of the right to silence in Northern Ireland.

The Prevention of Terrorism Act also includes a discretion to arrest without a warrant, when a constable has reasonable grounds for suspecting an offense against the proscription, exclusion or financial provisions. The power lies in the period of detention without charge that can follow from the arrest. The basic rule is that a suspect may be held for no more than forty-eight hours but in reality, this is not the case. A review officer, who must be someone who has not been directly involved in the case, studies the suspect's case "as soon as practicable after the beginning of the detention".<sup>107</sup> The review officer can then continue to look at the case at twelve hour intervals but the incarceration can be prolonged if the review officer is not readily available.

The review officer can also authorize continued detention if two conditions exist. First, the officer must be satisfied that detention is necessary to preserve evidence relating to the offenses. Second, the officer must be satisfied that the investigation is being conducted thoroughly and quickly.

The two-day detention can be further extended up to five days by order of the Secretary of State. The moment an application for such an extension is made, the review procedure described at length in the Act does not apply. It is futile to object and request a judicial review because, given the subject matter of the power involved no court in England

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<sup>107</sup> A diluted version of this procedure under the Police and Criminal Evidence Act 1984 regulates this period of incarceration.

will dare to review a Home Secretary's decision. There are also no special guarantees in the Act about sleep, diet or treatment of detainees, despite the greater length of time involved.

Some government officials have discovered that detention may not necessarily occur for prosecution purposes. Sometimes a detainee is questioned about his or her political views, friends and colleagues in an effort to gather background information that may be useful later. The police and the army have been known to arrest not only a person against whom there is firm evidence but also people connected with this person. This can defeat the whole purpose of detention by alienating the innocent and making them more sympathetic to the causes of the terrorists.<sup>108</sup>

Proscription, exclusion and detention have been fought by many British and Irish citizens who see these as an infringement of their civil rights. Although it is not specifically mentioned in the Prevention of Terrorism Act, many of these allowances seem to target Irish citizens in particular. There is no bill of rights in Great Britain but it has been frequently proposed as a solution to the perceived threat to political freedom. Its supporters have stipulated that it would have to list political freedoms that are protected such as freedom of expression, conscience and religion. Parliament would not be permitted to pass laws which violate the terms of the bill of rights, and existing legislation would be capable of challenge if it went against guaranteed freedoms.

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<sup>108</sup>In the mid-1970s, one-hundred twenty-two people were detained in London but only four were convicted of any offense. Similar sweeps also occurred before Christmas in 1979, 1981 and 1983.

### C. THE USE OF SUPERGRASSES

The practice of using informants by Great Britain's police and prosecution authorities goes back several centuries. Informants have also been used in trials in Northern Ireland for the past fifteen years. In November 1981, the RUC arrested William Black in a Catholic area of North Belfast. Just over a year later a trial began in Belfast's Crown Court at which thirty-eight people were accused of one-hundred eighty-four separate charges stemming from forty-five alleged incidents of violence. Black had agreed to cooperate with the authorities during his interrogation, provide the majority and, at times, the only evidence against the accused.<sup>109</sup>

Authorities like to call those who provide this evidence "converted terrorists" but scholars have pointed out that this term is erroneous in that these individuals do not convert due to genuine repentance. Most of them cooperate in exchange for shorter prison sentences and immunity. A more popular and frequently used term is "supergrass".<sup>110</sup>

The development of the use of supergrasses as the principal method of securing convictions in Ireland came from the Italian government's response to their political violence. In 1978 following the kidnaping and subsequent assassination of Aldo Moro, the Italian government introduced a new measure which provided for a substantial reduction in

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<sup>109</sup>Paddy Hillyard and Janie Percy-Smith, *Converting Terrorists: The Use of Supergrasses in Northern Ireland*, Journal of Law and Society, Volume 11, Number 3, Winter 1984.

<sup>110</sup>The term *supergrass* distinguishes these people from *accomplices* which covers all those people who have taken part in the crime and *informers* who are usually individuals working for the police at the time that the crimes which they describe are committed.

punishment if the accomplices detach themselves from the others and endeavor to secure the release of a victim. Subsequent legislation extended the notion of dissociation still further by adding cooperation with the police to prevent criminal activity and/or to gather crucial evidence leading to the arrest of the conspirators. The Italian authorities expected true repentance from the terrorists, which went a long way in persuading the informers to participate fully.<sup>111</sup> Authorities in Northern Ireland believed the Italians had found an excellent deterrent but they were more pragmatic about human nature and the nature of terrorists. They were not interested in the motivation or beliefs of the supergrass. The fact that they turn is sufficient. Moreover, a repentant terrorist cannot be exploited in Ireland as though it was in Italy.<sup>112</sup>

The majority of supergrasses have been recruited during interrogation after they have been arrested, although some have been drawn from those already imprisoned. The types of people who have been recruited have made the whole strategy questionable. One supergrass was described as a dangerous and ruthless terrorist while another had an extensive criminal record. The inducements used by the authorities include money or a new life, but the most attractive was the offer of immunity from prosecution for the crimes which they have committed.

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<sup>111</sup>Hillyard and Percy-Smith, pg. 340.

<sup>112</sup>The authorities knew that the motivations of a majority of supergrasses is to save themselves from unpleasant repercussions such as prison or death. Sometimes this was used as a deterrent to those who were thinking of joining these groups. Loyalty was certainly not a prerequisite.

Although it is granted liberally in Northern Ireland, the prosecution and the public have expressed concern over the immunity for supergrasses who have been involved in serious crimes. One supergrass who informed and was subsequently granted immunity later recanted and admitted to being an accomplice in the killing of an informer. The authorities then decided that immunity would be granted only to those who were accomplices rather than the actual murders.

Another objection to the use of supergrasses was the unreliability of witness testimony. At times, the supergrass is expected to provide information relating to many different people covering hundreds of separate incidents stretching back over many years. As experimental psychologists have proved, people do forget information and incidents as the interval increases between the time of the information's acquisition and its retrieval. It has also been found that it is possible for a subject to take information provided to them, eventually believe it to be true and replace their own correct version with that information. Supergrasses may unknowingly perjure themselves, believing this specious testimony to be true.<sup>113</sup>

From various accounts, the authorities were fully aware of the problems of inadequate recall and the pressure to produce results. Various supergrasses have stated that the way police intervened in drawing up their statements. Others have described that the police have given them names, expecting them to implicate those people in terrorist activities

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<sup>113</sup>E. Loftus and G.R. Loftus, "On the Permanence of Stored Information in the Human Brain", *The American Psychologist*, Volume 35, Number 5, pp. 409-420.

There are a lot of issues that must be considered during a supergrass trial. In ordinary criminal trials where it is discovered that the witness has a criminal record, the jury is warned to treat that evidence with caution. However, in a supergrass trial, the case will rest almost exclusively on evidence of a person which, in other circumstances, would be regarded with suspicion. A supergrass may recant, disappear or die before the case comes to trial. In the case of retraction, the alleged terrorists are released unless another supergrass can be found to give evidence to hold them.

The supergrass strategy has radically extended the role of criminal law in a unique way. In a normal criminal trial, a witness testifies in an individual capacity with the understanding that his/her testimony will not have any wider consequences. The activities of a supergrass, however, will eventually affect family and friends, who may be used as pawns in the strategy. The police need the family and friends to support and maintain the supergrass in his commitment to be the principal witness. The IRA use the families and friends as hostages in an effort to make the supergrass recant. The use of supergrass evidence ultimately creates a climate of fear and distrust among those who engage in political violence but also within the communities whose interests the strategy is supposed to serve.

All the strategies which have been tried in Northern Ireland have shown that the problem of political violence cannot be dealt with through conventional or radically modified criminal justice systems. While it may be possible to achieve "an acceptable level of violence," ultimately the law has not been successful in solving this particular problem.

#### **D. CEASE FIRE?**

Currently, England and the Republic of Ireland have a Joint Declaration of Peace in effect. This was made on December 15 1993 to "remove the conflict, to overcome the legacy of history and to heal the divisions which have resulted".<sup>114</sup> The IRA followed almost one year later with a cease-fire declaration on August 31, 1994 which included their belief that an opportunity for peace had been created by the Joint Declaration and they were going to take advantage of it. The Combined Loyalist Military Command (CLMC), the military arm of the Loyalists, released their cease-fire statement on October 13 1994 with the hope that everyone could "resolve to respect our differing views of freedom, culture and aspiration and never again permit our political circumstances to degenerate into bloody warfare."<sup>115</sup>

Since the recent troubles began in Ireland in 1969, this latest attempt at peace seems to be the best weapon against domestic terrorism in Great Britain. Both the Loyalists and the Nationalists perpetrated terrorist activities but it was usually retaliatory in nature with no real objective but revenge. In all those years, the political situation did not change nor did the views of the Loyalists and the Nationalists. Terrorism created a stalemate.

Both the Sinn Féin and the Progressive Unionist Party, the political arms of the warring factions, have seen the futility of the terrorism carried out by their military sections and now see England's offer of peace as an opportunity to negotiate and legitimize

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<sup>114</sup>Joint Declaration on Peace (Internet, 1995), pg. 1.

<sup>115</sup>CLMC Cease-fire Statement, (Internet, [www.gpl.net/niiic/politics](http://www.gpl.net/niiic/politics), 1995).

themselves around the world. Although it has not been said, it seems more than a coincidence that they approached this solution after the PLO and Israel signed their peace agreement. Perhaps both sides see the futility of violence and are finally aware of how it has affected the populace and the economy. Their countries have been ravaged, poverty in both the Republic of Ireland and Northern Ireland is at an all-time high and families have been cruelly separated. The Irish are weary and seem ready for a peaceful change.

## V. COUNTERTERRORISM AND THE CONSTITUTION

In the previous three chapters, I have discussed the fight against domestic terrorism in three countries: the United States, Israel and Great Britain. Each country has had a different domestic terrorist problem and each country has chosen to fight it in different ways based on cultural and constitutional constraints (or lack thereof).

In the United States, domestic terrorism has never really been a problem in the past compared to Israel and Great Britain. In the 1960s, the FBI was concerned about reactions to civil rights and the negative response to the war in Viet Nam. Organizations such as the Ku Klux Klan and the Black Panthers were well-armed and not adverse to using extreme violence and intimidation to further their goals. The FBI felt justified in violating the constitutional rights of the alleged terrorists in order to fight what they saw as a threat to the security of the United States and they were very successful if not brutal.

While Great Britain and Israel seem to have settled their differences with the IRA and the Palestinians respectively (at least for now), domestic terrorism has occurred in the United States after a long absence. As mentioned previously, the World Trade Center and the Oklahoma bombings have brought it to the forefront in the most tragic way.

According to one source, there were signs that violence directed at the federal government was scheduled to occur on April 19, 1995. Strategic links between militia groups and white supremacist organizations had been detected as early as October 1994 through various communiqués, racist publications and law enforcement bulletins. A Klanwatch

intelligence report pointed out the significance of the April 19 date among militia extremists. For more than a year, the Waco burning, the execution of Richard Wayne Snell (a white supremacist convicted of two murders in Arkansas), and the Ruby Ridge incident were the rallying cry of militia organizations against the federal government. They made these "injustices" known through meetings, fliers and Internet postings and warned of the "wrath of God" descending to avenge these incidents.<sup>116</sup> Klanwatch's chief investigator, Joe Roy, has warned that, "the volatile combination of hate-filled rhetoric, paramilitary training and heavy weaponry within the hard-core militia underground make the likelihood of further violence very high." Although it would have been impossible to prevent the Oklahoma bombing, the FBI and other organizations may have been able to put out a threat advisory for federal facilities as they did after the event.

One challenge facing the FBI is conducting counterterrorist investigations and operations without violating the constitution as Hoover did liberally in the 1960s. When the COINTELPRO came to public attention in 1972, Americans were shocked at the extent to which the FBI had delved into private lives. Although COINTELPRO was successful and the FBI was doing exactly what the President requested, that success was won at the high cost of disregarding constitutional rights and even the lives of innocents. Today, United States

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<sup>116</sup>This unofficial intelligence was taken from the Southern Poverty Law Center's Klanwatch Intelligence Report, June 1995. Klanwatch has been keeping records and gathering information on white hate groups since the early 1960s. They formed a Klanwatch Militia Task Force to collect in-depth intelligence on these little-known militia groups.

citizens are intolerant of such invasions of privacy and as indicated by Congress, would never accept expansion of FBI jurisdiction.<sup>117</sup>

In Israel and Great Britain, however, extended powers granted to the law enforcement authorities seem to be welcomed. The citizens of these countries have tacitly agreed that the primary concern is to get the terrorists and stop the slaughter by any means necessary even if that means limited freedoms for them. As discussed in both chapters three and four, most infringements of constitutional rights do not affect the general population. In England the latest Prevention of Terrorism Act is directed solely at the perpetrators of the crime. An alleged terrorist can be convicted based on testimony by a suspect witness and/or circumstantial evidence. Detention is allowable for up to seven days based on suspicion of law enforcement authorities. In court, a suspect can be tried without a jury.<sup>118</sup> Although

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<sup>117</sup>After the Oklahoma event, Clinton moved to push his anti-terrorism bill with several additions that expanded the FBI's jurisdiction and powers. Congress was concerned at what they saw as a move to legitimize invasion of privacy and stated the potential for misuse, which was common in the COINTELPRO days.

<sup>118</sup>These courts, known as Diplock courts, were proposed by Lord Diplock, the Law Lord in Parliament heading a commission to investigate alternative means through law to fight terrorism. In 1972, the British had decided that a military response was not effective against a political situation and looked to the law. The Diplock Report stated, among other observations, that in this "emergency" situation, jury trials should be suspended for certain crimes judged as "terrorist" offenses and the judge should make the final decision. This recommendation was based on two assumptions: 1) that jurors would be intimidated and 2) that then predominantly Protestant juries would return acquittals when face with Loyalist terrorists (See page 212 in *Freedom Under Thatcher: Civil Liberties in Modern Britain*). Unfortunately, these courts are not always convened to only prosecute terrorists and they have become an institution assimilated into Northern Ireland laws.

attempts have been made to inform the British public of these offenses to human rights, they seem satisfied with the proficiency of their law enforcement officials.

Israel has basically suspended rights for those Palestinians and Arabs living within their borders. Interrogation processes can be harsh, brutal and sometimes deadly. Curfews are routinely ordered for Arab neighborhoods and searches can be conducted without a warrant, often disrupting every day life. The Israeli Jews do not protest these violations of human rights since they are not affected. Perhaps this is why right-wing groups have begun to come to the forefront.

Both Israel and Great Britain have been under the strain of constant terrorist attacks. It seems that when these attacks happen with such frequency, people want results no matter what the cost. They are willing to give up democratic freedoms if it brings a halt to deadly terrorist activities.

#### **A. SYMPATHY FOR THE DEVIL?**

One of the makings of a successful terrorist or terrorist group is to gain sympathy and support from the population no matter how serious the crime. The usual object of a successful terrorist is to put the government in such a position as to prove its ineffectiveness. This, in turn, causes the people to distrust the government in power and to turn to the terrorists for answers and change. Once that occurs, the terrorists can have a measure of success, gaining their demands through the government's impotence.

Because the population in the United States is ethnically mixed and most of the domestic terrorist groups are based on racism and bigotry, sympathy has never been a

problem for the FBI. In the 1960s, with both the white and black hate groups, there might have been tacit support through money and rhetoric, but when it came down to the dirty work such as bombing or murdering, only the most fanatical members could do it. Once a heinous deed has been committed by a group in the United States, it is like signing their own death warrant and waiting for the lynching party to appear. Although militia groups, hate groups and pro-life groups work for change in the government, they just do not have the overwhelming support of the people. Many Americans may grouse about the government, but they seem to prefer change through the electoral process because it usually works.

In Great Britain, however, sympathy has been the determining factor in the success of the IRA and the British Army/RUC. When the IRA commits a deed, usually retaliatory, they are given whole-hearted approval by the Catholic population. IRA members can hide out for long periods of time in a sympathizer's house and financing has never been a problem. They have even garnered sympathy and financing from supporters in the United States. On the other side, the British and Loyalists are just as sympathetic to the cause of Northern Ireland. Even with the cease-fire agreements and the Joint Declaration of Peace in effect, the British have made it clear that if the IRA does not lay down their weapons before approaching the peace table, they were prepared to risk a resumption of IRA violence. British Tory MP Sir Peter Temple Morris stated in an interview with the Irish Republican News that "there is

a willingness on this side of the water to tolerate in certain circumstances, the thought of violence returning.”<sup>119</sup>

The Palestinians have always supported their terrorist groups, allowing them to hide in their houses or providing them with arms. Unfortunately for those terrorist groups, loyalty is almost non-existent and sympathizers tire easily, especially if their day to day livelihood is threatened. Eventually the terrorists are on their own, which may be why they began to attack targets overseas. On the other side, the Israelis more or less support their government or at least they did until the peace initiatives went forward. Here they found themselves split and some right-wing splinter groups took the anti-peace rhetoric very seriously to the point of fanaticism. Unfortunately, the Israeli government was unaware how serious they were until Yitzhak Rabin was assassinated.

Although sympathy may not bring down the government, it can bring about change. In Israel and Great Britain, peace was a long time coming because of sympathizers on both sides who were not willing to blink first. Perhaps the fact that elections and public opinion have, so far, brought about change when people are unhappy has been the reason why domestic terrorism fails to generate sympathy the United States.

## **B. THE TERRORIST’S REASON FOR BEING**

In the United States, those terrorists belonging to hate groups have an agenda based on some personal issue. They are racist, anti-Semitic, anti-gay or pro-life and so on. The

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<sup>119</sup>Mary Carolan, “British Will Risk Return to Violence Says Tory MP”, *Irish Republican News* (Internet, [www.genesis.com](http://www.genesis.com), October, 1995), pg. 1.

white supremacists believe that the existence of other races or ethnic groups on an equal level constitutes a threat to their way of life. This is not about government control (except that some believe the government to be secretly run by Jews and that African Americans are their policemen) but a personal belief in their superiority based on history. Militia groups believe that constitutional rights are being eroded by laws made by the President and Congress. Gun control, civil rights and legalized abortion are the government's way of controlling patriotic Americans and keeping them dependent. This belief is so deeply rooted that they disregard voting and the electoral process. Some militia groups have ties with white supremacists and the Ku Klux Klan.

In both Israel and Ireland, terrorists are fighting for land and religion but for different reasons. Sinn Féin and the IRA believe that Ireland should be united under a Catholic-influenced government. They resent the fact that the British are assisting the Protestant citizens residing in Northern Ireland and suspect that they have an ulterior motive (empire building). The Loyalist terrorists, on the other hand, believe that if Ireland is going to be united, the church and the government must remain separate and religious freedom allowed. They have decided that British rule and a continued connection to the Commonwealth will assure that, even if it means a divided Ireland.

Right-wing Israeli terrorists believe that the state of Israel and the occupied areas belong to them through their covenant with God. Muslims and Christians, although People of the Book, do not have that same covenant and are therefore not worthy of those privileges accorded to the Jews. Many of them are orthodox Jews and do not accept the laws governing

the modern Jewish way of life. Although they were very active during the early days of Israel's independence, they went underground and did not emerge terroristically until the 1990s when peace with the Palestinians began to look like a reality.

The Palestinians and their supporters believe that they were there first and that the region also has religious significance for them. When the various Arab-Israeli wars occurred and the Israelis gained land, the Palestinians were told they were no longer welcome and became refugees. The PLO began fighting for defeat of Zionism and recognition as people but were unable to field an army to defeat Israel. The PLO, therefore, used terrorism as a substitute for military aims.

In Israel and Great Britain, they have begun negotiations for peace, which suggests that the terrorists were partially successful. The government has recognized them, making them legitimate and elevating them to the international arena. The Palestinians have gained autonomy but hard-core terrorists will settle for nothing less than the obliteration of the Israeli state from the face of the earth. The British and the Sinn Féin have yet to begin negotiations.

White supremacists and militia groups in the United States are asking for changes such as repealing abortion and civil rights laws. Basic freedoms of others are at stake and the FBI must ensure their protection as outlined in the Attorney General Guidelines.

### **C. POSSE COMITATUS**

As discussed in chapters three and four, the fight against terrorism has fully involved the armies in both Israel and Great Britain. The Shin Bet and the IDF have an excellent, professional working relationship; they share intelligence information and frequently work

together on counterterrorist operations. The military has the weapons and the materiel to get into places that the *Shin Bet* may not be able to penetrate. They also have commando units who can respond quickly when a terrorist situation escalates.

The British Army was originally called in by Northern Ireland's government when the political situation escalated to terroristic proportions. Although the RUC had dealt with small outbursts in the past, they were not prepared to face a well-armed IRA. Initially, when the Army arrived, they headed all the counterterrorist operations until the RUC protested. The British Army changed their operating procedures so that they were technically assisting the RUC. Unlike Israel's situation, there were too many organizations involved in countering the IRA threat and they were not willing to work together. This created a confused situation that inadvertently got men killed.

In the United States, the Posse Comitatus Act, passed one-hundred seventeen years ago, sharply curtails the rights of the military to get involved in domestic law enforcement. This does not mean that the military has not been used in domestic law enforcement, as evidenced in chapter three, but for all intents and purposes, they do not and will not get involved. President Clinton's proposed Omnibus Counterterrorism Bill, section 101, offers what is considered by some congressmen a dangerous breach in the Posse Comitatus Act. The new law would permit the Attorney General, when investigating violations of section 101, to request assistance "from any Federal, State, or local agency, including the Army, Navy and Air Force when biological and/or chemical terrorism is involved. Senator Russ Feingold, D-Wisconsin, who voted against the Counterterrorism Bill, considers it "a vehicle

to undo some of the traditional barriers which separate the federal government from state and local law enforcement.”<sup>120</sup>

David Kopel, of the Independence Institute, shares Feingold’s misgivings about weakening the Posse Comitatus guidelines. While acknowledging that chemical or biological terrorism is not an impossibility, Kopel indicated that there are preemptive measures which are compatible with current guidelines:

“There are perfectly permissible ways for the military to share its expertise regarding chemical and biological terrorism with civilian law enforcement personnel. For example, it could train the FBI to deal with such threats, and the FBI could pass this along to local police. As long as the military is not actually enforcing civilian law, we can maintain the characteristics of a free society.”<sup>121</sup>

Israel and Great Britain do not have such limitations when it comes to their counterterrorist operations. In Israel, the military seems to be an advantage to the Shin Bet but in Northern Ireland they seemed to be a hindrance. As a consideration for future counterterrorist operations in the United States, the military does not look like it will be participating in conjunction with the FBI due to heavy congressional opposition.

#### **D. COUNTERTERRORISM IN THE UNITED STATES. THE FUTURE?**

In this thesis, I have shown that there are many approaches to deter terrorism but no matter what seems the best approach, it will always be under the auspices of the government.

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<sup>120</sup>William Norman Grigg, “Chipping Away at Freedom” *The New American*, (Internet, [www.execpc.com/~jfish/na/072495.txt](http://www.execpc.com/~jfish/na/072495.txt), 24 July 1995), pg. 2.

<sup>121</sup>Ibid.

Israel and Great Britain have been battling terrorism for many years and their governments have made adjustments to get the better of terrorists and save lives. At times, both countries have been supremely successful and in other operations have been tragic failures. No matter how long they have been at it, they have not found the absolute answer to deterring terrorism and protecting civilian targets.

The FBI is completely ruled by the constitution and the Attorney General's guidelines. First and foremost, constitutional rights of the victim or the terrorist must not be violated. Although they had significant successes with COINTELPRO, when it was discovered, the public did not remember those successes. They were appalled by the FBI's violation of democracy, the very democracy they were supposed to protect.

The 1996 Summer Olympic Games will be held in Atlanta in July. Six million event tickets will be sold and approximately 260,000 travelers will stay in the city. The 1972 Summer Olympics tragedy demonstrated the opportunity that a massive congregation of world-renowned athletes offered to terrorists, both domestic and international. The FBI's involvement in the Summer Games stems from its mandate to counter the possibility that terrorists might view the Olympics as an appealing venue in which to execute a terrorist attack or stage an incident meant to attract international attention. In addition, historic, political, or longstanding ethnic rivalries that may exist among the fans, athletes or officials of competing countries may also give way to terrorist acts of violence. The FBI may be challenged much more than they were during the 1984 Summer Olympics in Los Angeles.

Working closely with the Olympic security officials and numerous local, state and

federal law enforcement agencies, the FBI has headed the effort to form a coordinated counterterrorism network to neutralize any potential terrorist threat. Through a coordinated effort, security and terrorist concerns have been carefully scrutinized in order to preempt potential crisis situations. Only time will tell if those preparations are sufficient or even needed.

The FBI is also investigating industry's effort to combat terrorism through technology. For example, there is a move to incorporate taggants into explosives so that they will be easy to identify and track after a blast.<sup>122</sup> Other innovations include nuclear quadrupole resonance, which scans for frequencies specific to explosives and vapor detection methods, which examine and break down the vapor emanating from an explosive device. Many of these are currently being used separately or together in airports in Europe and the Middle East with excellent results. The Federal Aviation Administration, however, has strict guidelines for detection methods and most are too expensive for industries to be willing to produce the technology.<sup>123</sup>

The FBI cannot wait for the United States to become a battle ground for terrorists before it develops a counterterrorist plan. The World Trade Center and the Oklahoma bombing have shown that more than ever, that they must be prepared and vigilant. It would

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<sup>122</sup>A. Maureen Rouhi, "Government, Industry Efforts Yield Array of Tools To Combat Terrorism", *Chemical and Engineering News*, July 24, 1995, pg. 2. Identification taggants are microscopic color-coded particles that help track the source of explosives after a blast.

<sup>123</sup>*Ibid.*, pg. 7.

be unrealistic to expect them to prevent all terrorist attacks but that should be the goal. Working with other law enforcement and intelligence agencies should keep most terrorist attacks from being a surprise.



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